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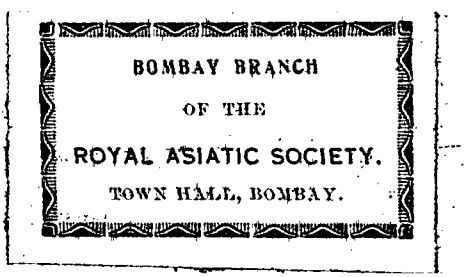

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HISTORY

OF THE

REPUBLIC

OF THE

UNITED STATES OF AMERICA,

AS TRACED IN THE WRITINGS OF

ALEXANDER HAMILTON

AND

OF HIS CONTEMPORARIES.

35549
QC

BY

JOHN C. HAMILTON.

VOLUME VII.

"Neque enim est ulla res, in qua propius ad Deorum numen virtus accedat humana quam civitates aut condere novas, aut conservare jam conditas."—*Cic. de Repub.*

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CONTENTS OF VOLUME VII.

CHAPTER CXXXVI.

PAGE

Adams' Inaugural Address—His conflicting feelings—Dislike of Washington's Cabinet—Washington and Hamilton called jugglers—Temper of the Cabinet—A commission to France—Cabot to be one—suggested—Adams proposes mission to Jefferson—and nomination of Gerry, Madison, and Pinckney—Adet urges mission of Jefferson—Adams' tirade against Jefferson and Pinckney—Notion of the Vice-Presidency—Prejudice against France; her military successes; arrogant policy; insulting deportment toward Pinckney; refusal to receive a minister until redress of grievances by U. S.—Overture of Pinckney disregarded—Refusal to confer with him—Decree violating the treaty with U. S. announced—Public reception of Monroe, who commends the constitution of France—Reply of Barras, assailing the American Government and extolling the people—Pinckney to leave France—Democratic presses defend the insults by France—Defence of U. S. by Pastoret and censure of French captives, ...

CHAPTER CXXXVII.

Hamilton to Pickering—Advice as to measures of Government—Reply of Pickering—Hamilton urges Tracy to propose a commission, including Jefferson or Madison—His advice to McHenry—Efforts to preserve peace—Preparations for war—An internal invasion—Final preservation of peace—Pickering's statement of treatment of Pinck-

PAGE

ney—Hamilton dissuades its publication—again urges a commission —Madison objected to—Distrust of Adams—False rumors circulated —France vindicated by Democrats—Adams eulogized—Hamilton calumniated—Jefferson's insidious letter to Gerry—Writes to Madison as to France—Hamilton again urges commission to France, including Jefferson or Madison—Advises arming of merchant vessels and a provisional army—Austria forced to peace—Congress meets—Speech of Adams embracing Hamilton's policy—Hostile decree of France—Senate accords with President—Opposition in House—partly prevails —Giles opposes demand of compensation by France—Smith vindicates it—Gallatin's hesitating vote—Address passes House—Jefferson censures manly policy of the Government, and suggests a land-tax contingent on State *quotas*—as to a consolidated Government—View of Gerry—Pinckney—Dana and Marshall appointed envoys to France—Washington denounces the Democratic leaders—Dana declining, Gerry is substituted—Hamilton as to policy adopted, disapproving violence—His suggestions as to taxes and a loan—Specific taxation—Bill prohibiting privateering—Bill to prevent exportation of arms—Bill to augment corps of engineers and artillerists—Bill to man and equip frigates, and to purchase and fit other ships—Hamilton's plan of defence proposed—Fortifying ports and harbors—Resolution to complete frigates Constitution, Constellation, and United States, passed—Right of employing convoys questioned by Democrats—Authority to arm merchant vessels refused—Stamp and Salt taxes proposed—Gallatin's motion to adjourn rejected—Raising of a regiment defeated—Bill to prevent enlistments in foreign service resisted, but passed—Giles opposes printing all the documents as to depredations, which was ordered—Urges an adjournment—Urges employment of frigates to be confined within jurisdiction of the U. S.—Gallatin opposes a navy—Nicholas denounces it—Giles adverse to U. S. becoming a maritime power—Bill to complete the frigates passed—Foundation of a navy laid by Federalists, in "Act providing for a Naval Armament"—Stamp Act opposed, but passed —Gallatin proposes a stamp on every certificate of debt—Rejected —Increased duty on salt—Licenses for retailing wines and liquors defeated—Loan authorized, ... 16

CONTENTS OF VOLUME VII.

CHAPTER CXXXVIII.

PAGE

Commission to run boundary between U. S. and Spain obstructed in their operations by the Spaniards—Proclamation by Carondolet delaying the Boundary Commission—Excitement of Western inhabitants—Spanish agent employed to prepare severance of Western territory from the Union—Plan defeated—Democratic press advocates Louisiana and Floridas being acquired by France—Attempt on Canada discovered and defeated—Ira Allen's participation—McLean sent to Canada by Adet—Detected and hung—Blount opens negotiation with British ambassador—Overtures rejected by British minister—Blount impeached and expelled Senate, Jefferson dissenting—Spanish diplomacy subservient to France—Correspondence of De Yrugo and Pickering—De Yrugo appeals to the American people—Proposes transfer of negotiation with Spain to Paris, and complains of treaty with Great Britain—Jefferson's correspondence with his partisans, being Washington's personal enemies—Calumniates Washington—Washington's earnest condemnation of Democrats—Letter under assumed name addressed to him by a nephew of Jefferson—Jefferson's letter to Mazzei published in the U. S.—Its previous approval in "Moniteur"—Jefferson called upon to disavow it—Consults Monroe and Madison—The former advises its avowal—The latter dissuades it—Jefferson is silent—Is conspicuous at a public dinner to Monroe—Gives toast to success of France—Monroe demands of Pickering an explanation of his being recalled—It is refused—Pickering offers to state it unofficially—Monroe refuses—Intercepted letter of Monroe to Logan—Base attack upon Hamilton—His vindication and exposure of it—Present of Washington to Hamilton—Monroe, in conjunction with Jefferson, write his vindication—Washington's comments, . 5

CHAPTER CXXXIX.

Buonaparte—Successes of, in Italy—Venice, Genoa, and Lombardy succumb—Peace concluded with Austria—Conferences at Lisle—Revolution in France—Talleyrand Minister of Foreign Affairs—A military despotism established—Defended by Democratic press in U. S.—Confidence of Directory in her influence in U. S.—Speech of Adams—Advises prosecution of measures of defence against France and Spain—Condemns pending systems and loans, and advises immediate taxes—Contrast by Madison of Washington and Adams—Insi-

PAGE

dious efforts by France to paralyze action of U. S. Government—Proposed repeal of Stamp Act rejected by Senate—Mission of J. Q. Adams to Berlin censured—Proposed reduction of the diplomatic corps to Jefferson's standard—Gallatin urges the discontinuance of all diplomatic functionaries—Contends that Legislature had power to control diplomatic appointments by resisting appropriations—Question discussed—Proposed reduction defeated—System for conducting impeachments framed in Senate—Trial by jury proposed and approved by Jefferson, but rejected—Jefferson's hostility to judiciary of U. S., and advises enactment by Virginia of a *præmunire* against all citizens *attempting* to carry causes before other than State Courts, of causes over which they had not jurisdiction—Denunciatory resolutions pass her House of Delegates—Conferences at Lisle approaching a successful issue are broken off by France—Efforts to infringe treaty of Leoben defeated, and treaty of Campo Formio concluded—Treaty with Portugal declared void, and intention to invade England proclaimed—American Commissioners arrive in Paris—Preparatory publications to excite French hostility—Adams transmits to Congress a message of French Directory, declaring as good prize neutral ships laden with productions of England, or of her possessions, and closing ports of France against vessels touching at English ports, unless in distress—No hope of success to the mission—Circular to French diplomatists and agents, announcing intended descent upon England, and stimulating a league against her—Measures of effectual defence proposed in Congress, which remains quiescent—Democratic exultation at downfall of England—An invasion of her denounced by Bonaparte as "a *barbarous invasion*"—Jefferson approves the hostile decree of France, ... 85

CHAPTER CXL.

Questions as to policy of Administration submitted to Hamilton—His opinion communicated to Secretaries of War and State—Measures to be adopted—Suspension of treaty with France—Pickering favors an abrogation of treaties—Consults as to Louisiana—Hamilton averse to an immediate alliance with Great Britain—Policy as to her—Acceptance of Louisiana from Spain absolutely or conditionally—Message of Adams urging active measures of defence—Condemned by Jefferson—Advises legislative prohibition of arming—Looks to invasion of England—Pennsylvania rejects a resolution against arm-

PAGE

ing—Senate for measures of defence—Resolutions in House against war with France, and for restriction against arming—Washington to McHenry, as to machinations of Democrats—Baldwin, Gallatin, Nicholas, and Giles oppose policy of Hamilton—Harper in reply—Hamilton advises a solemn communication by Adams on state of affairs—His speech on territorial controversy of New York and Connecticut—Writes "The Stand"—Its character and purport—Despatches from envoys at Paris—Demands of douceurs by U. S.—Talleyrand and Gerry—Refusal of envoys to pay money—Declaration of confidence in their French party in U. S.—Threats of ravaging American coasts—Spirit of the American people aroused, . . . 104

CHAPTER CXLI.

Hamilton urged to accept the appointment of Secretary at War—Jay proposes to appoint him Senator—He declines, reserving himself to a greater emergency—Jefferson speculates on defection of people—Deprecates Hamilton's genius—Solicits subscriptions for the Aurora—Denounces the President—Talleyrand to Jefferson—Urges Madison to reply to Hamilton—Madison's inconsistency—Attack upon Jay—Jefferson alarmed at public feeling—Timorously urges Monroe to take a seat in Congress—He does not comply—Burr moves memorial against England's policy—Unfriendly conduct of England—Hamilton as to her injurious conduct—Kosciusko sent on secret mission by Jefferson to France, and obtains passport for him under an assumed name—Further despatches from envoys, giving violent decree of France as to neutrals—Findley and Gallatin oppose their publication, and prevail—Senate orders their publication—Giles retreats from Congress—Jefferson excuses the Directory—Comment by Hamilton—Senate authorizes an additional naval armament—Permission to convoy refused—Bill to increase navy passes—"Department of Navy" established—Cabot appointed its head—A regiment added to army—Authority given to purchase cannon and ammunition—After much opposition a provisional army voted—Act to accept volunteers passed—Hamilton's caution as to proposed power to President to employ ships of war, offensively—Advises an appeal to Congress—Bill authorizing reprisals passes, ... 125

CHAPTER CXLII.

PAGE

New demand of a reply by envoys—New requisitions of money by France—Volney, messenger from Jefferson, sails for France—Mission of Logan by Jefferson—His conferences in Europe—His memorial to Talleyrand—Continued exactions by France—Commercial intercourse with her suspended, and treaties with her declared void—Proposal to issue letters of marque rejected—Presents of armed vessels to the United States accepted—Merchant vessels authorized to defend themselves and capture their assailants—Supplementary Naturalization Act—Proposed amendment of Constitution, eligibility of public officers—Hamilton's more liberal view—New indignities by France—Marshall returns—Public honors paid him—Talleyrand's specification of injuries of the United States toward France—Disproofs thereof—Disposition of France to treat with one of the envoys deemed most friendly to France—Answer of envoys—Gerry remains in Paris after Marshall's and Pinckney's departure—Livingston's resolution for an address requesting President to instruct Gerry to negotiate and conclude a treaty with France, rejected—Addresses to and indiscreet replies of President—The black cockade—Correspondence from France with leading Democrats—Violent schism between envoys at Paris—Foreign emigrants devoted to Jefferson—Irish emigrants, their character—American Society of United Irishmen—Act concerning aliens—Moderate view of Hamilton, and Alien Law modified—Collot sails for France—Incendiary presses conducted by foreigners—Adams' prompt measure against them, and Sedition Act passed—Hamilton objects to its severity and deprecates its impolicy—Sedition Act modified, limiting punishment and authorizing truth to be given in evidence in prosecutions for libels—Tax plan of Wolcott—Direct tax and tax upon slaves—Loans authorized—Provisional army authorized—Its general staff—Volunteers to be accepted, 145

CHAPTER CXLIII.

Hamilton early proposes a Federal navy—Policy of Cabinet—Waywardness of Adams—Jealousy of Washington—Declares against further attempts at negotiation—Hamilton's comment upon him—His fluctuating conduct—Hamilton intimates to Washington a journey through Virginia and North Carolina to stay the apprehended influence of Democrats, suggesting his taking command of army—Washington's

PAGE

reply—French partisans—Inquiries whether Hamilton would enter the army, as a preliminary to his own course—Hamilton's reply—Hamilton to King—State of public opinion—Misconduct of England—Answer of King—Pickering to Hamilton—Hamilton contemplated as commander of new army—Adams' hostility to Hamilton—His letter to Washington contemplating his service in army—Washington's reply, stigmatizing democratic leaders—McHenry to Washington—Replies, stating as condition of his acceptance of the command, the selection by himself of the general staff—Adams nominates him Lieutenant-General, and states to him his motives for this procedure. Washington states to Secretary of War the condition of his acceptance, giving list of officers, placing Hamilton at head of the general staff—Accepts commission of Lieutenant-General—Adams assails Pinckney—Jealousy of Treasury department—Pickering to Washington, urging Hamilton as second to him and chief in his absence—Hamilton to Washington, urging his acceptance of chief command, and proposes a visit by him to seat of Government—Washington to Pickering, as to importance of Hamilton's services—Washington to Hamilton—His selection of him, doubts as to Pinckney's consent to be his subordinate—His regard to and course as to Knox—Pickering urges Hamilton's acceptance of a commission—Reply, stating his views—Answer—Jay urges Hamilton's appointment, ... 166

CHAPTER CXLIV.

Adams' conduct as to general staff appointments—Action of Senate—Hamilton to Washington; is willing to submit his pretensions to rank, and waive the preference—Adams leaves Philadelphia without informing his Cabinet—Declines calling the generals into service until rank is settled; unless Knox and Pinckney precede Hamilton—Opinions of Washington by Adams and Jefferson—Washington to Knox; his opinion of Hamilton—Knox claims preferential rank—Washington to Hamilton, who avows readiness to facilitate any arrangement—Adams insists upon right to rank according to antecedent services, thus placing Hamilton lowest—Self-contradiction by him—Objects to a reference to Washington, and imputes intrigue—Hamilton's delicate conduct—Secretaries of War and State to Washington, avowing public preference of Hamilton—Adams' obstinacy—Wolcott to Adams, as to Hamilton's priority of rank—Similar view presented by Cabot—Washington's determination avowed to Secre-

PAGE

tary at War—Urges Hamilton to suspend his decision—Cabot's distrust of Adams—Hamilton's disinterestedness—Washington's decisive letter to Adams, and high commendation of Hamilton; demands Adams' final determination—Adams submits to Washington's will—Knox declines an appointment—Pinckney accepts—Hamilton called into service—Letter to Knox—Burr in view as Quartermaster-General; Washington's utter distrust, ... 186

CHAPTER CXLV.

Bonaparte sails for Toulon—Anxiety of Europe—Various opinions as to his purposes—Insurrection of Ireland premature—Conferences at Rastadt—Austria's alliance with Russia—Continued hostility of France toward United States—Corps of consuls in their ports announced—Negotiations with Gerry, who favors a loan to France—Pinckney's opinion of Gerry—Conferences with him terminated by a peremptory order for his return to United States—France recedes from her pretensions—Revokes decree for capture of American vessels, and also her embargo—King to Hamilton, stating the subtle policy of France—Hamilton as to public mind and the character of Adams—Hamilton's view of policy of United States—Looks to conquest of Louisiana and liberation of colonies of Spain—His resolution as to navigation of Mississippi—Essential to the unity of empire—Dangers of British acquisition of Louisiana and Floridas—Washington regards as sole motive of war by France the acquisition of Louisiana—Hamilton regards the acquisition of Louisiana and the Floridas as essential to the permanency of the Union—Miranda discloses to Hamilton his views as to liberation of South America—Hamilton points to an ascendant of United States in American affairs—Miranda and Pitt as to South America—Montaigne, Montesquieu, and Brissot look to liberation of South America—Miranda proceeds to London and meets commissioners from Southern America—Plan proposed by them, embracing cession of Louisiana and Floridas to United States—Terms arranged with Pitt—Miranda addresses Adams, and also Hamilton and King—King announces the purpose of England—Hamilton again, in an official station, approves the plan—Hostile position of Spain toward United States—Hamilton incloses, through King, a letter to Miranda, stating his participation must be patronized by the Government—States his plan of coöperation with Great Britain—His plan approved by England—Adams' jealousy—Discountenances the projected measures, ... 205

CHAPTER CXLVI.

PAGE

Hamilton as to defence of New York—Meeting of Washington, Hamilton, and Pinckney, at Philadelphia—Questions propounded by Washington—Answers drawn by Hamilton—Topics stated—Hamilton's papers embrace a large view of military administration—Fluctuations of Adams—Asks advice of Cabinet as to his speech—Is a declaration of war against France expedient? Shall he state his intention to receive a minister from France?—Knox as to probable invasion by France—Jay apprehends her domination comprehends America, North and South—Hamilton elated with public firmness and union—Nearer view of temper of Adams—His vanity and caprice—Urges obliteration by Pickering of censure of Gerry—Offended honesty of Pickering—Adams to Gerry—Murray to Adams, announcing wish of Talleyrand a new envoy be sent to France—Secretary at War urges Adams' presence at Philadelphia, who pleads the indisposition of his wife—Gerry and Logan repair to him—Adams convenes his Cabinet—His speech—Firm tone of replies by Congress—Senate remarks indignity of Directory, passing by agents of Government and impeaching its integrity through unauthorized agents—Adams' undignified answer—His note to Pickering—The speech chiefly in language of Hamilton—Madison's and Jefferson's comments—Bill punishing citizens of United States usurping office of treating with foreign countries—Law suspending commercial intercourse with France reënacted, with provisional authority to reopen it—Great Britain recognizes people of Hayti as an independent nation—Discretionary power to reopen intercourse opposed by Nicholas and Gallatin; defended by Otis and by Pinckney—Edict of Directory, a pirate every person forming part of a British crew voluntarily or by impressment—Retaliatory bill passed—Bill granting bounty on French vessels captured by private armed vessels c United States defeated—Gallatin opposes a navy—Hamilton to Gunn; reply—Hamilton advises postponement of actual augmentation of regular army, except of two troops—Increase of cannon authorized; increase of provisional army; provision for clothing the militia, and a loan—No reduction of existing force—Suppression of internal disorders—Revival of act authorizing 80,000 militia; fortification of a few cardinal points, ... 221

CHAPTER CXLVII.

PAGE

Army of United States; its progressive increase — Military establishment fixed on Hamilton's plan—Provisional army—Act to augment the army—Hamilton's plan for reorganizing the army adopted—The rank of "General" created; also subordinate generals—His aim a fundamental arrangement—The military power of the President defined—Plan for organizing the militia—Trade with Indians—Manufactories of arms—Regiment of sergeants proposed—Plan for issuing military supplies—Recruiting system—Duelling discouraged—Power of President in appointing officers—Special law authorizing filling vacancies by President—Stoddert Secretary of Navy—His report for its augmentation—Bill passed to augment it—Laws for establishment of naval docks—Purchase of timber and government of navy—Gallatin attempts to limit interest on the loan to six per cent.; is defeated—Jefferson's comment—Hamilton recommends treasury notes—Loan raised at eight per cent.—Jefferson absents himself from Philadelphia until after Washington's departure—His letters disseminating distrusts—Taylor contemplates a severance of Union—Jefferson dissuades extreme measures; stigmatizes the Yankees; denounces his opponents—Jefferson's confidence in unpopularity of taxation—Would take from Government the power of borrowing—Advises for the present declaring alien and sedition laws void—Correspondence with other States—Kentucky resolutions—Right and remedy of nullification—Committee of conference and correspondence—Nicholas falls short of Jefferson's plan—Jefferson, at a late period, under an injunction of secrecy acknowledges himself author of these resolutions—Jefferson afraid of being prosecuted, ... 246

CHAPTER CXLVIII.

Virginia resolutions presented by Taylor; drawn by Madison—Asserts the right and duty of the States to interpose—Declares alien and sedition Acts unconstitutional—Washington charges their advocates with a determination to subvert the Constitution—The hostility of France encouraged by them—Washington's denunciation of Jefferson—Approves the alien law—Again stigmatizes the Democrats as "the curse of their country"—Again charges the design of subverting the Government—Washington urges Patrick Henry to aid in opposing the Virginia leaders—Henry chosen to her Legislature—

PAGE

His death—Madison to Jefferson, as to Virginia resolves—Washington to Marshall—Hamilton to Lafayette, dissuading his return to United States—Desires amicable termination of difficulties with France—Hamilton to Sedgewick; charges Virginia leaders with a conspiracy to overturn the Government—Advises a condemnatory report of their resolves by Congress, and efforts to enlighten people of Virginia—Resolutions of inexpediency to repeal the laws against aliens and those respecting the defence and revenue of the United States—Resolutions vindicating the Government defeated by substitutes of Nicholas—Hamilton to Dayton, suggests measures for protecting the General Government, and enlarging its powers; subdivision of States—Urges vigor in conduct of Executive, . 266

CHAPTER CXLIX.

Jefferson urges Madison to publish the secret debates of the Federal Convention—Madison does not accede—Copy of Hamilton's first plan of Constitution placed in hands of Callender for publication—Jefferson to Monroe, as to disposition of France—Condemns commerce with St. Domingo—As to a political subscription—Jefferson to Gerry; states a falsehood as to his employment of Logan, and urges him to violate his official secrecy—His letter to be secret—Washington's interview with Logan—Indignation at Directory—England, her tone firm—Naval victories—Austria firm—Directory alarmed—Hamilton advises, if negotiation with France unsuccessful at a fixed period, a declaration of war, power to Executive to occupy the Floridas and Louisiana, policy also to detach South America from Spain—Adams' purpose not to receive a minister from France, changes his mind, and resolves to accept a minister—Transmits to House correspondence, Gerry and Talleyrand, with a comment by Pickering—King commissioned to treat with Russia—Smith envoy to the Porte—Adams offended by rejection of Smith as Adjutant-General—No orders given to recruit the army—Claims to be the patron of the navy—Vigorous measures of Senate—Creation of rank of General—Adams' fear of taxation—Jealousy of Washington—Violent temper—Intrigue to induce him to institute a mission to France—Adams orders a treaty and consular convention to be draughted preparatorily, and without delay—Talleyrand's communications with Vans Murray—Assurance an envoy would be received—Adams, without privity of his Cabinet, nominates Murray envoy—Rejoicing of Jefferson—

PAGE

Hamilton's comment—Tribute to Washington's character—Adams announces this appointment—His reply—And disapproval—Hamilton urges a commission to negotiate—Adams urged, but refuses to withdraw the nomination—Senate resolve to reject it—Adams yields, and nominates Ellsworth, Patrick Henry, and Murray, Commissioners—Henry declining, Davie is appointed—Adams appoints an agent to St. Domingo—Wishes the independence of the French West India Islands—Hamilton frames a plan for the government of St. Domingo—Adams withholds from Washington the commission of General, ... 286

CHAPTER CL.

Discouragement of the Federalists—Democratic clamors—Efforts to contaminate the army—Insurrection in Pennsylvania—Hamilton advises vigor—The Governor of each State to be considered General of its militia—Proclamation to insurgents, who submit—Hamilton orders demarcation of Indian boundary—Federalists prevail in New York election—Burr in Assembly, his artifices—Resolution tendering thanks to Adams for mission to France rejected—Act for gradual emancipation of slaves—Virginia, its political theories and excitements—French depredations continued—France orders her cruisers to attack American vessels—Louisiana, Washington favors its acquisition by arms—Pinckney charged with military affairs of Virginia, the Carolinas, and Georgia—Hamilton charged with the residue—Hamilton orders Wilkinson to repair to Philadelphia—Interview with him—Military condition investigated—Contingent capture of New Orleans—Revolution in France—Unpropitious state of French affairs—Hamilton as to acquisition of Floridas and Louisiana—Proposes separation of engineers and artillerists, which was made—System of tactics for cavalry—Duties of Adjutant-General—Plan for organizing the volunteers—Military supplies, allowances, and forms—Relative rank—General courts-martial—System of drafts—Corps of engineers—Corps of artillerists—Corps of invalids—Board of Ordnance—Superintendence of military stores—Adams' fluctuations—Urged to repair to Trenton to consult as to suspension of the mission to France—Hesitates as to departure of envoys—Decides to postpone it—Election in Pennsylvania adverse to Adams—Convenes his Cabinet—Instructions to envoys settled at midnight—Next morning, without privity of Cabinet, orders the departure of the envoys—His opposite

PAGE

views of effect of the mission—His expectation of a general peace —Hamilton submits plan for distribution of troops in divisions and brigades—Reduction of number of posts—Reserved force at Louisville —Work at Loftus Heights—Work on connecting Strait between lake Erie and Huron—Occupation of Fort Massac—Plan of huts, . . 310

CHAPTER CLI.

Hamilton to Washington, impolicy of the mission—Reply, disapproving it —Hamilton to Wilkinson, pacific policy toward Spain—Urges economy—Jefferson urges acquiring of State influence—Madison elected to Assembly of Virginia—Jefferson advises a position open to proceed to extremities or not—Change of views produced in him by dissensions of Federalists—No looking to force—Monroe nominated by Madison and elected Governor of Virginia—False vindication by Madison—Callender announces his "Prospect before us," and is associated with the State printer—Giles' proposal of instructions to representatives of Virginia—His subsequent denial of right of instruction—Election by general ticket and by ballot in Virginia— Each voter required to endorse his name upon his ballot—Electors of President nominated by Legislature—Among them Madison, Giles, and Taylor—General, State, and subordinate committees appointed —Madison reports review of proceedings of States as to his previous resolutions respecting alien and sedition laws—Jefferson gives him an outline of topics, expressly reserving right of separation from the Union—Madison's report—Laws proposed in Virginia—New taxes imposed and measures to levy the militia *en masse*—Counter address of minority—Madison's inconsistency—Instructions to Virginia senators—Hamilton draws form of military contracts—Plan for organizing Quartermaster's department—Regulations as to uniforms—As to issues and extra allowances—General Pinckney at New York— Codes of tactics—Democratic attacks upon the Cabinet to prepare for its dissolution—Hamilton institutes a prosecution for a calumny, and libeller punished—Congress meets—Speech of Adams—Hamilton repairs to Philadelphia—Matures his plan of a military academy —Its outline—Submits it to Washington—His reply, being his last letter—Washington's death—Address of Adams and resolutions of Congress—Oration by General Lee—Hamilton's order as to funeral honors—Note to Pinckney—Letter to relict of Washington—Note to Lear, ... 335

CHAPTER CLII.

PAGE

Democratic rejoicings at Washington's death—His influence deprecated—Hamilton's view of public affairs—Temper of Virginia—Proposes measures of defence—Conduct of Great Britain—Jefferson arrives at Philadelphia, and Nicholas moves a repeal of acts creating the Provisional army—Discussed and defeated—Amendment of sedition act rejected—Livingston's criminating resolutions as to extradition of Robbins—Gallatin sustains—Marshall opposes them—They are defeated—Bills to create rank of admirals, and also a military academy, defeated—Subsequent measures for its establishment—Winfield Scott—Act for relief of bankrupts passed—Act to discharge insolvents held under judgments of Federal Courts—Bill to amend judiciary system fails—Revolution in France—Bonaparte first consul—Enters upon negotiation with American envoys—Disbandment of provisional army authorized—Bernadotte's mission announced to Hamilton by Lafayette—Partisans of Adams in motion—Democratic exertions—Jefferson's calumnies upon Federalists, and attack upon Hamilton—Vindications by Federalists, ... 351

CHAPTER CLIII.

Hamilton to Sedgewick, deprecating existing impediments to growth of America—Reply to Lee—Eventual triumph of United States and of himself—His fidelity to public interests—Burr's electioneering activity in New York—Intrigues with two Democratic factions—Gates brought forward—Burr chosen to Legislature by an interior county—Hamilton's counter efforts—Power of his appeals—Democrats carry city of New York—Hamilton urges equal support of Adams and Pinckney for the Presidency—Meeting of Federalists in Congress urges Hamilton to induce Jay to convene the existing Legislature to authorize choice by people of Presidential electors—Motives to this procedure—Hamilton's letter to Jay—Jay refuses—Hamilton again urges support of Pinckney—Adams dismisses his Cabinet—Hamilton's comments—Statement of M'Henry—Adams' treatment of Colonel Pickering—Marshall declines place of Secretary at War—Dexter appointed Secretary at War and Marshall Secretary of State—Jefferson's dupery of Adams, ... 371

CHAPTER CLIV.

PAGE

Hamilton chosen President-General of Cincinnati—Proceeds to Jersey to disband troops—Adams consults Hamilton as to appointment of Smith colonel of a regiment—Hamilton's reply—Adams' offensive answer—Smith appointed in Custom-House—Hamilton frames bill as to articles of war—A system of tactics completed—Tactics of infantry by Hamilton—Proceeds to Oxford to disband troops—Festival to him at Boston—Terminates his official career—State of politics—Hamilton as to Adams—Pickering attacked and fully vindicated—Adams attempts to gain public feeling—His calumnies of the Federalists—His own contradiction—Assails and approves England—Hamilton contemplates a vindication of Federalists—Consults Wolcott, who approves of it—Ames' opinion of Adams—Hamilton's demand upon Adams as to charge of a British faction—Hamilton to Bayard—Probable success of Jefferson or Burr—His character—Ames and Cabot approve exposition of causes of distrust of Adams—His extravagances—Hamilton's renewed demand upon Adams—Hamilton decides on exposition of Adams' conduct—Adams' calumny on the Pinckneys—His weak apology—Washington's disgust—Hamilton's exposition of Adams—Purloined, and parts stealthily copied by Burr and his tools—Bad faith toward Pinckney—His manly honor loses the Presidency—Gunn to Hamilton, ... 889

CHAPTER CLV.

Discord and compromise in Pennsylvania—Adams' veering policy—Attempts to conciliate Democrats derided—His compromising speech to Congress—Addresses of Congress—Propositions to amend Constitution as to choice of Presidential electors—Bill to organize courts of United States—Act passed to continue internal revenue and direct tax valuation amended—Convention with France reaches United States—Ellsworth to Hamilton—Instructions to envoys—*Ultimata*—Course of negotiation—Convention entered into—Its provisions—Dissatisfaction of Federal Senators disclosed to Hamilton—Hamilton disapproves certain of its features, but advises its ratification—Its effects—Ellsworth resigns as chief justice—Jay nominated to this office, but declines it—Commends Adams and displeases Federalists—Marshall appointed Chief Justice—Pledge to Burr by Congressional caucus of Democrats—Madison to Monroe, urging its fulfilment—

PAGE

Attempt to divert a vote from Jefferson in New York College—Contemplated diversion in South Carolina—Parity of votes between Jefferson and Burr—Jefferson to Livingston, cajoling letter—Jefferson attempts to cajole Burr, and venom toward Hamilton—Burr's reply—Explanatory letter of Jefferson to Burr—Jefferson to Madison, as to his prospects—Madison's extraordinary suggestion—Proposal to organize militia of Virginia—Of a convention of the United States—A Federal executive council—Violent suspicions of Hamilton, . . 410

CHAPTER CLVI.

Hamilton decides the choice of President—His letters to Wolcott, urging preference of Jefferson to Burr—Jefferson to pledge himself as to certain national measures—Otis to Hamilton—Letter of Sedgewick, preferring Jefferson—Hamilton's reply—Reply to Otis—Hamilton to Gouverneur Morris, deprecating project of preventing an election—Reply of Marshall, utter distrust of Jefferson—Hamilton to Bayard, the character of Burr, his relations with Jefferson—Interview of Jefferson and Adams—Adams not averse to an usurpation—Desperate projects of the Democrats—Hamilton to Rutledge, and reply; preference of Burr—Overtures of certain Federalists to Burr—Hamilton to Ross, character of Burr—Urges preference of Jefferson, requiring pledges as to his policy, ... 434

CHAPTER CLVII.

Sedgewick to Hamilton, giving reasons for supporting Burr—Bayard to Hamilton—Reply, character of Burr—Electoral votes counted in Senate—Final result of ballots—Jefferson elected—Bayard as to course in House—Corrupt bargains for Jefferson—Votes purchased by promises of office—Consequent appointments—Non-intercourse act as to France expires, and not renewed—Sedition act expires—Adams leaves seat of Government—Jefferson inaugurated—Extracts speech of Bayard, ... 450

CHAPTER CLVIII.

Jefferson asks support of Senate—His inaugural Address—Its reception—Letters to his partisans, and calumnies on his opponents—His policy as to removals—Urgency of his friends for place—Sneers at Christian religion—Giles fears moderation—Jefferson's reply—Rush to Jefferson—Jefferson admits integrity of Federal officers to Knox,

PAGE

respect for Federalists—Calumny upon Hamilton—Jefferson to Samuel Adams and to Gerry—Callender menaces Jefferson with exposure—Alarm—Jefferson invites Paine to United States—Paine's slanders upon Washington—Jefferson shrinks from innovations, except omission of forms—Reduction of army, economy, and submission to foreign events—Apprehensions of cession of Louisiana to France—Madison appointed Secretary of State—Dearborn of War—Lincoln Attorney-General—Jefferson to Madison, as to Secretary of Navy—Livingston, Smiths, Langdon, Tobias Lear—Appeals to public favor—Prosecution against Duane discontinued—Fine imposed on Callender remitted—Hamilton at his country residence—His interest in rural objects—Journey to Albany—Conferences with Federalists—Writes answer to a Democratic address, vindicating policy of Federalists—Its important topics—State of parties—Hamilton's speech prior to election in New York—Clinton chosen Governor—His eldest son killed in a duel—Democratic majority elected to Senate of United States—Removals and appointments by Jefferson—Asks for a proscriptive Act—Appoints Gallatin Secretary of the Treasury—Robert Smith, Secretary of Navy—Charles Pinckney envoy to Spain—Gideon Granger Postmaster-General—Legations to Holland and Portugal withdrawn—Abuse of patronage—Clamor of Federalists—Propitious condition of public affairs, result of Federal policy, . . 469

CHAPTER CLIX.

Meeting of Congress—Democratic majority in each branch—Macon Speaker of House—Jefferson sends a message—Its topics—Hamilton writes an "Examination" of it—Call for accounts of Pickering—Hamilton as to specific appropriations—Jefferson concurs—State of finances—Gallatin yields to Jefferson, and reports in favor of abolition of internal revenue—Injurious consequences—Gallatin ultimately approves Hamilton's financial system—Virginia leader in House, John Randolph—Virginia leader in Senate, Wilson Cary Nicholas—Randolph's resolutions—Reduction of duties—Compensation for French spoliations rejected—Internal revenue Act repealed—Hamilton's comment—Naturalization Act altered—Hamilton's view—Army reduced—Proposal to abolish navy department laid on table—Giles in favor of navy—Completion of seventy-fours defeated—Jefferson rejoices at reduction of army and navy, abolition of internal revenue,

PAGE

and lopping off a part of the judiciary—Repeal of Bankrupt Act postponed, and a feature of it altered—Jefferson urges inquiries into past conduct of navy and war departments—On investigation no delinquency found—State department clandestinely entered at night—Pickering approved by his adversaries—Edmund Randolph a defaulter—Madison circulates a mutilated copy of the report—Stoddert assailed, promptly vindicates himself, and subsequently approved—Giles' unworthy conduct—Bill as to salaries—Democrats oppose their reduction—Jefferson urges changes in Treasury department—Gallatin pronounces it as having been perfectly organized—Hamilton's fiscal plan of 1795 approved—Fallacious Act under title of an Act for the redemption of the whole public debt passed—Its provisions—A loan to France commended in "The Aurora"—Pressed by Pichon but abandoned—False statement in relation to it, . . . 511

CHAPTER CLX.

Judiciary department, originates with Hamilton—Jefferson's hostility to it—Commissions to district judges withheld by Madison—Jefferson denies power of judiciary to decide as to executive or legislative action—Personal motives for the hostility to it of Jefferson, Madison, and Gallatin—Hamilton examines Jefferson's contemplated attack upon it—Necessity of its previous modification, extent and character of it—Breckenridge's notice in Senate and Randolph's in House, of inquiry as to alterations in judiciary department—Debate in Senate—Bill to abolish district judges passes—Hamilton urged to call meeting of bar—Declines so to do, and induces Chamber of Commerce to present a memorial against this Bill—Hamilton publishes a view of the tenure of the judicial offices—Also of legislative power of binding succeeding legislatures—Giles sustains abolition of judicial offices—Bayard his leading opponent—It passes the House—Extraordinary position as to tenure of all offices—Hamilton's comment—Hamilton proposes to General Pinckney a conference of leading Federalists—Hamilton frames resolutions for amending the Constitution—Their purport—Presented to New York Legislature and adopted—Motives to choice of Presidential electors in electoral districts—Hamilton to G. Morris, reasons for these amendments—Hamilton's propositions pass the House and are defeated in Senate—Morris' reason for his negative vote—Hamilton's comment—Exposes Jefferson's partiality to State Governments, ... 543

CHAPTER CLXI.

PAGE

Change in usage of Congress—Standing committees—Executive influence—Ill-treatment of Truxton by Jefferson—Bayard to Hamilton—Reply; intrigues of Federalists with Burr; measure to recover influence suggested—Prophetic speech of Hamilton—Democratic success in New York—Hamilton to King as to state of parties—King returns to United States—Monroe succeeds him—Opinion of Hamilton as to power to remit or restore a fine—Callender betrays Jefferson by publishing his confidential letters—Their purport and character—Jefferson had urged his defence—Jefferson's admissions and excuses—Callender is arrested—Is drowned—Paine arrives in United States—Proceeds to seat of government—Assails Washington's memory—Is neglected by Jefferson—Repairs to New York and dies in its vicinity—Jefferson condemns the freedoms of the press, ... 575

CHAPTER CLXII.

Jefferson's elation—Light opinions—Proposes Joel Barlow to write a history of United States—Calumny on Marshall—Frames a travestie of the Gospels—Vituperates New England—His altered air—Calumniates the Federalists and adopts their policy, and applauds his own—Adams to Jefferson, their respective policies—Maligns Washington—Comments on Jefferson's speech—Impolicy of Gallatin—Hamilton's amendments to Constitution postponed—Ohio becomes a State—Its democratic constitution—Gunboats authorized—England repeals her discriminating tonnage duties at instance of United States—The repeal abandoned from alarm of its unpopularity—Cession of Louisiana by Spain to France—Hamilton's solicitude—Rufus King to Madison; aversion of England to the cession—Madison's timid instructions to Livingston—Bonaparte captures Guadaloupe and attacks St. Domingo—Jefferson acknowledges unfriendliness of France—Points to union with England as consequence—Proposes cession of New Orleans by France to United States—Employs Dupont as sub-negotiator—Attempts false propitiation of Talleyrand—Madison as to conduct of France—Proposes to barter restitutions and debts due American merchants in purchase of Louisiana—Livingston depicts French estimate of American statesmen—Madison to Pinckney—Overtures to Spain—Expedition to New Orleans under Berna-

PAGE

dotte announced—Adet prefect—Collot second—Urges instructions—Proposes acquisition of New Orleans—States extended views of France—Undervalues Pensacola and St. Augustine—Purchase of New Orleans and Floridas authorized—Declined by Talleyrand—Madison urged by Livingston for explicit instructions, and preparations of force—Deposit at New Orleans of American effects prohibited and communicated to Congress—Western excitement—Call for information—President's reply, promising employment of just and honorable means—Call for official documents refused—Hamilton to Pinckney, state of public opinion—Cession of Louisiana—Pinckney's reply—Randolph's tame resolutions—Griswold's resolutions, asserting right to navigation of Mississippi, and inquiring as to necessity of legislative measures, postponed—Randolph's passed—Monroe envoy to France—Jefferson to Monroe—His limited and timid views—His letter to Dupont—Project in France for dismembering and occupying the Western territory—A servile and an Indian war predicted—Bonaparte's determination to accredit Bernadotte to the United States, who was to command expedition to New Orleans—Hamilton publishes "Pericles" to incite administration to vigorous measures to acquire Louisiana—Resolutions by Ross, requiring President to occupy Island of New Orleans and supplying the means—Doors of Senate closed—Jefferson's timidity—Debate in Senate—Yazoo speculation, ... 595

CHAPTER CLXIII.

State banks—Manhattan Bank—State Bank—Hamilton frames Merchants' Bank—Wolcott—Restraining act—Corrupt legislation—Law as to choice by people of Presidential electors defeated—Charter of city of New York violated—Hamilton's speech at election—Jefferson's fears as to Louisiana—Joint instructions to Monroe and Livingston—Their scope—Madison to Pinckney—Approves previous mission of Jay—Timidity of Jefferson's cabinet—Royal order of Spain—Right of deposit continued—Views of British cabinet—Jefferson as to friendliness of England—Provisional treaty with her suggested—She announces military precautions—Bonaparte avows the object of his intended expedition—Talleyrand to Livingston—England announces her intention to occupy New Orleans for benefit of United States—Her ultimatum communicated to France—Resolutions of Ross received in Paris—Bonaparte's decision to sell Louisiana to United States—

PAGE

Sale concluded—Monroe's limited views—Exposures of Jefferson—Public exultations at purchase of Louisiana—Hostility to it of New England—Hamilton's approbation of it—Acquisition of Canadas—Livingston's cautions—Caveat by Spain—Jefferson commends France, condemns Great Britain—Treaty with France—Opposition to admission of Louisiana into Union—Treaty ratified—Bill passed to carry it into effect—Bill passed erecting Louisiana into two territories—Power of Constitution over territories defined by Hamilton—Ordinance of 1787—Effort of Indiana to suspend it—South Carolina repeals her law prohibiting importation of slaves—Specific duty on imported slaves—Prohibition in act organizing Louisiana, of importation of slaves thereto from abroad, and of slaves from within United States, imported since 1798, and of all slaves, unless the property of persons settling there from the United States—Randolph and other Democrats condemn terms of treaty of purchase—Jefferson avows the treaty unconstitutional—Hamilton's larger view of treaty making power—History of it—Hamilton's plan embodied in Constitution—Statement of his views as to this power—Confirmed by previous acts of United States—Statement as to power of incorporating foreign territory into the Union—Hamilton and Jefferson contrasted as to future of United States, ... 635

CHAPTER CLXIV.

Impressment of seamen—Opposition to navy—Gunboats—Increased taxes—Treaty with Great Britain suffered to expire—Convention with Spain—Report for encouragement of domestic manufactures and increase of duties not acted upon—Bankrupt act repealed—Hamilton's amendment to Constitution designating President and Vice-President recommended by Congress—That as to choice by people of Presidential electors, postponed—Jefferson's contempt for popular voice—New Orleans delivered to the United States—Proscriptive policy of Democrats—Jefferson urges impeachment of Judge Chase—His motives—Failure of impeachment—Burr's treasonable operations—Bill to suspend Habeas Corpus passes Senate—Defeated in House—Jefferson's foreign policy stated—British aggressions—Timidity of Jefferson—Non-importation act passed—Jefferson's advances to Great Britain—Treaty with her concluded—Jefferson refuses to ratify it—Assault by Great Britain—Efforts to obtain the Floridas abroad and at home—Randolph's contempt for Madison—Douceur to

PAGE

France contemplated—Non-importation act continued—British aggressions—Orders in Council—French decrees—Embargo enacted—Servility of J. Q. Adams, who disavows desire of office and accepts an embassy—France jeers at policy of Jefferson—Napoleon seizes American vessels—Taunts by Great Britain—Army of six thousand men called for—Enforcing act—Embargo repealed—Non-intercourse act—Jefferson's sketch of his policy—His term of service expires—Effects of his narrow policy stated, ... 670

CHAPTER CLXV.

Hamilton disavows office, except in case of war—His legal education—Crude state of American law—His professional distinction—Kent's recollections—Service as a legislator—Return to the New York bar—Settles principles of commercial law—Knowledge of civil law—Domestic affection—Case of Le Guen—Christian religion—Case of Croswell—His persecution—Trial for libel—Refusal to admit truth in evidence—Conviction of libel—Case of Zanger—Common law cherished in United States—Its binding force denied in Virginia—Public indignation in non-slaveholding States, ... 695

CHAPTER CLXVI.

Argument on motion for a new trial of Croswell—Hamilton's vindication of a free press—Kent's comments—Liberty of press defined—Right of trial by jury—Truth to be given in evidence—Roman and English law—Common law defined—Applied to United States—Real dangers of liberty—Court divided—Bill concerning libels rejected—Bill passes next Legislature, incorporating Hamilton's principles—His definition of libel embodied in an English statute—Calumny on Federalists—Hamilton vindicates them in a correspondence with George Clinton—Factions in Democratic party—Their violence and intolerance—Hamilton's moderation—Kind interposition between Cruger—Absence of prejudices—Playfulness of temper—Gratuitous advocacy of poor—Instances of professional success—Case of Weeks—Strict integrity—Disdain of political prejudices—Rebukes party spirit—Tribute to his eloquence—Brief on liberty of press—Right of trial by jury—Truth to be admitted in evidence, ... 722

CHAPTER CLXVII.

PAGE

Jefferson's policy as to his opponents—Weakness of central power—Jefferson's patronage exerted in Eastern and Middle States—Burr proscribed—Clintonians and Livingstons cultivated—Rival gazettes of Burr and Clinton—Burr denounced—Duel between Dewitt Clinton and Swartwout—Testimonials of public estimation of Hamilton—Assailed by Democrats—Burr denies imputed intrigues with Federalists—Hamilton denies any personal knowledge of them—Rising feuds among Democrats—Persecution of Judge Addison, of Pennsylvania—McKean denounced—Political violence in New York—Duels ensued—City of New York alarmed—Aristides by Van Ness—Burr repelled by Jefferson—Thanks to Jefferson by House of Representatives—Friends of Burr appeal to public sympathies—He is nominated as governor—Jefferson nominated as President, George Clinton as Vice-President—Distrust of Burr by Federalists—His deceptive career—Lansing nominated governor—Conference of Federalists—Hamilton's advice to prefer Lansing—Fear of dismemberment of Union—Severance of Union contemplated and urged in Connecticut—Same purpose shown in Kentucky and Virginia—Hamilton states intrigues with Burr in that view—Increasing hostility to Jefferson—Separation of Union indicated as consequence of acquisition of Louisiana—Its constitutionality denied—Project opened with Burr—Plummer—Griswold—Burr's press advocates Northern interests—Motives to election of Burr—Lansing declining, Lewis is nominated governor of New York—Hamilton to King—He refuses to take part in election—Is again assailed—Projected severance of Union disclosed to Hamilton—His avowed abhorrence of project—Letter stating interviews with Burr, and advocating separation of Union—Address to people of Connecticut, condemning Hamilton's amendment of Constitution—Jefferson looks to its adoption as ensuring his election—Points to disunion as in contemplation—Burr defeated in New York, ... 754

CHAPTER CLXVIII.

Hamilton's private life—Religious culture and convictions—Reading—Solicitude for public welfare—Fête champêtre—Parties of Clinton and Livingston—Burr's political position—Discontents in Connecticut

PAGE

and Massachusetts—Slave representation denounced—Hamilton the barrier to disunion—Burr solicits pecuniary aid through Hamilton—His efforts to aid him—Meeting at Burr's—Hamilton to be challenged by him—The pretext—Burr's statement to Van Ness—Correspondence of Burr and Hamilton—Interview of Hamilton and Pendleton—Further correspondence—Pendleton to Van Ness—Reply—Hamilton challenged—His remarks—Challenge accepted—Hamilton's remarks—His aversion to duelling—Reasons for accepting challenge—Dangers of a civil war—Hamilton closing his professional duties—Burr practises with targets—Hamilton's devotion to the Union—Dinner to Trumbull and Colonel Smith—Note to Sedgewick, depreeating dismemberment of empire—Visits to Wolcott and Troup—Note to his wife—Avows determination not to fire at Burr—Last note to his wife—Proceeds to Hoboken—Is shot—Carried to Greenwich—Partakes of the communion—Public feeling—Burr flees—Hamilton dies, ... 789

THE HISTORY

OF THE

REPUBLIC OF THE UNITED STATES.

CHAPTER CXXXVI.

THE Inaugural address of the new President was a strange medley of sonorous generalities and unfit particularities;—an historical commendation of the Constitution, a vindication of himself from the desire of "alteration;"—an eulogistic appeal to the people, as the source of an elective government, needing, he assured them, not the aid of "robes or diamonds;"—an approval of the policy of the late administration and a just tribute to Washington; a boon to the Federalists, in a declared purpose to maintain "their system of neutrality and impartiality;" and a lure to the Democrats, in an avowal of his "personal esteem for the French nation." The thoughts, the language, and the tone were all of a sort to win unthinking favor; yet he uttered opinions, and indulged prejudices at variance with all he thus proclaimed, at the moment he was about to take his oath of office.

Alternate feelings swayed in the breast of Adams, pride at his elevation—doubts as to his position—distrust of the Federalists—fear of the Democrats. The glory of Washington he saw, overshadowing and pursuing him,—

the blandishments of Jefferson following and soliciting him; jealous of the one, contemning the other. Hatred of England—dislike to France—aversion to the financial system, because it was Hamilton's, and had succeeded; apprehension of change, lest it should fail—all were present. Thus acted upon by opposing passions and opposite forces, he stood, with the power of the nation in his hands, paralyzed by his own incertitudes. "I am the President of *three votes only*," * was his ever mortifying, ever returning reflection.

The Cabinet, instead of a support, was a restraint upon him. He felt it was not his, but the Cabinet of Washington. "These were but puppets," he wrote to Jefferson, "danced upon the wires of two jugglers behind the scenes, and these jugglers were Hamilton and Washington. How you stare at the name of Washington!" † This Cabinet is seen, though not seeking war, yet reluctant to further negotiation, when all the interests of the country demanded peace, could peace be maintained without a sacrifice of national honor. Thus, when every consideration required prompt decision and manly action, nothing was decided and nothing done.

In this state of mind, AMES found Adams the morning after his inauguration. Retiring from public life, in sinking health, he paid a parting visit to the President. In this interview, he suggested to him the appointment of a commission to France, of which he named George Cabot as one. Immediately after, Adams "sought" an interview with Jefferson, who joyed as he felt him nibbling at the bait. The President intimated to him the idea of

* Adams's Works, alluding to his majority over Jefferson—71 to 68.

† Adams to Jefferson. Quincy, June 30, 1813.

sending him on this mission to Paris, which not being encouraged, he proposed to him the nomination of Gerry and Madison, jointly with Pinckney.

Jefferson questioned Madison's acceptance, but promised to ascertain his views. Adams then hastened to a member of the Cabinet, who evinced a fixed opposition to Madison.* Staggered by this, and fearing the Senate might not confirm his nomination, he abandoned him.

Adams was already entirely at fault. The partisans of France now paid him "the most adulatory addresses." † The French minister, Adet, asked and was admitted to a private interview. The nomination of Jefferson was urged. The wind had changed, Adams did not concur. "To see such a character as Jefferson, and much more such an unknown being as Pinckney, brought over my head, and trampling on the bellies of hundreds of other men infinitely his superiors in talents, services, and reputation, filled me with apprehensions for the safety of us all. It demonstrated to me, if the project succeeded, our Constitution could not have lasted four years. We should have been set afloat and landed, the Lord knows where." ‡

Adopting the reason assigned by the Vice President, for his non-acceptance of the embassy—his official station—although he had offered him the mission; Adams

* Of this interview two differing statements exist—one by Adams, written long after, the other, written *when* is not certain. Adams states, "he seriously doubted whether the Senate would not negative Madison," and he "*concluded to omit him.*" Jefferson relates, "I consulted Mr. Madison, he *declined* as I expected. I think it was on *Monday*, the *sixth* of March, we met *at dinner* at General Washington's," and on that day he informed him of Madison's refusal. Washington's term expired on Friday, the third of March, he was present at the inauguration on Saturday, and left Philadelphia on *Monday morning*, the sixth of March.

† Administration of Washington and Adams, i. 476.

‡ Adams's Works, viii. 533, 535, 538.

declared, "Jefferson would not go. * * * We shall never be respected in Europe while we confound ranks in this manner. If we wish not to be degraded in the eyes of foreigners, we should not degrade ourselves. What would have been thought in Europe, if the King of France had sent Monsieur, his eldest brother, as an envoy? What, of the king of England, if he had sent the Prince of Wales? Mr. Jefferson, is in essence, in the same situation. He is the first prince of the country, and the heir-apparent to the sovereign authority, quoad hoc. His consideration in France is nothing. They consider nobody but themselves. * * * To a Frenchman, the most important man in the world is himself—and the most important nation is France."

Time decides for the irresolute. The event, which the Democratic press had predicted, occurred.

In the infancy of their power the Directory of France clothed their energy with an affected moderation. Whilst stimulating by every incentive the military ardor of the French nation, and extending their wide conquests, they professed a desire of peace. Thus, by contrast with the fierceness of their predecessors, they won the confidence of those of their subjects, who were weary of war, and infused a fatal weakness into the counsels of their enemies.

The great career of victory continued. The smaller powers along the Rhine had, one by one, succumbed, trembling before the massive armies, whose approach spread consternation throughout farther Germany. The Mediterranean States of Italy had ceased to exist. Instead of a well-compacted confederacy, which would promote the common welfare of its members, but might resist aggression, small defenceless associations were formed, having nothing in common but the latinized names, under which they were aggregated, and their

common dependence upon France. Four powerful armies, drawn in succession from the hereditary dominions of Austria, she had exterminated; a fifth only remained to be destroyed, and her sway would extend unresisted from the Alps to the Adriatic.

With her power thus established, no motives for dissimulation were supposed to exist. Policy gave place to pride; proposals of peace were the precursors to insult. The mask of republican moderation was thrown aside, and the Directory, from beneath their iron helms, frowned menace and destruction.

Either alarmed by their successes for the fate of Austria, or yielding to the importunity of the opposition, the British ministry early in the preceding year made an unsuccessful overture for a negotiation, through the embassy to Switzerland. It was met by an evasive and haughty reply—which assumed, that the constitution of France was paramount to all the rights and interests of other sovereigns. Overtures were, nevertheless, renewed through other channels, until, at last, the Directory felt compelled to appear to listen to them, and a mission to Paris was instituted. After much evasion and great delay, the principle of mutual compensation was admitted as the basis of a negotiation. But, the moment after, without any proposal of conditions on their part, the Directory required England to deliver her final terms within twenty-four hours. To this positive demand, the British envoy replied, declaring his readiness to enter into a discussion of their mutual claims. He was answered by a peremptory note of the same day, that he must depart from Paris within forty-eight hours. Twelve ambassadors had been previously dismissed.

The order was given on the nineteenth of December. On the fifth of that month General Pinckney arrived at

Paris. Three days before, the minister for foreign affairs apprised Monroe, that as Pinckney's arrival was at hand, if it had not taken place, he must inform him, that the formalities to be observed, were, that the minister recalled and his successor should send him a copy of their letters of credence and recall. Pinckney, deeming it more respectful, proposed to present them in person. A day was appointed, the letters were presented, and cards of hospitality * requested and promised. Two days after, a letter was addressed to Monroe, in which the minister of foreign affairs stated, that he had been charged by the Directory to notify him, "that it will not acknowledge or receive another minister plenipotentiary from the United States, until after the redress of the grievances demanded of the American government, and which the French Republic has a right to expect from it!"

General Pinckney waited until the next day, under the expectation of receiving a communication, when he addressed a letter, expressing his regret at the determination of the Directory; and that he was not permitted (in the terms of his letter of credence) to endeavor "to efface unfavorable impressions, to banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." He suggested, that, as official copies of his letters had been delivered, the decision of the Directory should be communicated to him, that it might be by him transmitted, as from the Directory to the United States; and he inquired whether it was their intention that he should immediately quit the territories of the Republic, or be permitted to wait an answer from his government. This letter being sent by his Secretary, the French minister desired him to return to General

* These were necessary to reside there unmolested.

Pinckney, as his answer, "That the Executive Directory knew of no minister plenipotentiary from the United States of America since the presentation of Monroe's letters of recall; and that the Executive Directory had charged him to notify to Mr. Monroe that they would not acknowledge nor receive another minister plenipotentiary from the United States, until redress of the injuries demanded of the American government, and which the French Republic had a right to expect." He added, as to the continuance of Pinckney in Paris, that the views of the Directory would be communicated either to him, or to Monroe.

Two days after, a person, calling himself Chief Secretary to the minister of foreign affairs, waited upon Pinckney, to signify, that with respect to his letter to him, he could not directly communicate with him; as it would be to acknowledge him as minister, when the Directory had determined not to receive him; that "as to the part of the letter which referred to his remaining, he supposed that he was acquainted with the laws of France as respected strangers." Pinckney replied, that he was not. He was told, there was a decree preventing all strangers remaining at Paris without particular permission, which as the Directory did not mean to grant, of course the general law would operate. Pinckney rejoined, "that a direct communication could not involve the supposed consequences, as Monroe had been recalled; and, if he had died, the information must have been conveyed to him. That the law cited did not reply to his letter, which was to know whether it was the intention of the Directory that he should quit the territories of the republic."

He answered, that he believed it was their intention he should quit their territories, but he would mention it to the minister, and apprise him in the evening. Pinck-

ney asked no personal favor, but to have the intention of the Directory clearly expressed as it related to him, in the situation in which he came to France.

In the evening, the Secretary returned, and stated, that the minister could only reply, that he understood the Directory to mean the territory of the Republic, and not Paris alone. That, as to the time of his departure, the minister could not designate it, but would ascertain from the Directory, and make known their intentions more explicitly on both points; but that, in all probability, the Minister of Foreign Affairs could not be the organ, as the Minister of POLICE was the officer under whose department his case would come. Pinckney answered, he apprehended that the Minister of Foreign Affairs was the proper organ, as he knew his official capacity, while the Minister of Police might regard him as a stranger and throw him into confinement; that it was in their power to receive him or not. That he had been received, and cards of hospitality promised; that he was entitled to the protection of the laws of nations. If suffered to remain until he heard from his government, he was under their protection; if ordered to depart, he was still entitled to letters of safe conduct and passports. He required that the decision of the Directory should be given in writing. In his despatch communicating these facts, he observed, "they have been assured by a late emigrant, that America was not of greater consequence, nor to be treated with greater respect, than Geneva or Genoa. Those who regard us of some consequence, have an idea that our government acts upon principles opposed to the real sentiments of a large majority of our people; and are willing to temporize '*until the event of the election of President is known.*'"

Ten days elapsed without any further communication.

Complaints by American citizens in France of the want of passports having been made to Pinckney, he directed his Secretary to wait on the Minister of Foreign Affairs, to represent that subject, and ascertain unofficially, the decision as to his departure.

The Secretary called and mentioned the situation of the American citizens lately arrived in France, who had been imprisoned for the want of passports, which could not be obtained, there being no acknowledged minister from the United States; that General Pinckney desired to be informed to what authority they should be referred for relief. The minister replied, that an arrête had been made on the subject, and that in future all petitions for passports from American citizens should be addressed to the Minister of the General Police. Being questioned respecting the decision of the Directory as to his remaining, he answered with marks of surprise, that he thought he had already explained himself with sufficient clearness; that he had long since signified the impossibility of his staying; that he thought he had exercised much *condescension* in having been so long silent; and should be sorry, if his further stay, should compel him to give information to the Minister of Police!!

The American Secretary reminded the Minister of what had passed with his Secretary, and of his promise to apprise him of the intentions of the Directory. The minister remarked, that he must have been mistaken as to his alleged promise to lay it before the Directory; but the Secretary reaffirmed his statement and observed, that General Pinckney was far from intending to dispute the wish of the Directory. What he wanted was a communication of it in writing. The minister insisted, that it had been given through Monroe; and, on being again asked to place it upon paper, turned from him with

warmth, and said, "that he should do no such thing, that General Pinckney might make his own deductions. He desired to have no more *communications with him.*"

Other degradations awaited the United States. France had suspended Adet, who, in appealing from the government to the people, offended against the dignity of this nation. With the notice of his suspension, the decree violating the treaty and all the rights of neutrals because of the compact with England, was officially announced to Monroe, who was informed of the anxiety of the Directory "to listen to loyal explanations, above all, when made through *him.*"

A successor is appointed to restore cordiality. He arrives and is rejected with contumely. His recalled predecessor taking fire at the insult offered to his country, and unwilling to remain the spectator of her wrongs, ought to have hastened with lofty indignation from the offensive scene; or, yielding to considerations of great public interest, he might perhaps have submitted with suppressed resentment to a private audience of leave. But the pride of France demanded the humiliation of America. Her policy prompted an open avowal in the face of the world of her determination to excite this people against their government.

Scarcely had the sound of the retiring feet of the American Secretary of Legation ceased to be heard on the threshold of the French minister when a day was appointed for the reception of Monroe.

On the thirtieth of December, he waited in the antechamber of the Directory. The door was opened, and he entered, surrounded by the vassals of despots crowding forward to offer their submissive homage. First, the envoy of the Bey of Tunis tendered "assurances of his devotion to the interests of the French Republic;" next,

the ambassador of Spain approached to express in behalf of the Duke of Parma his solicitude to form the "closest ties" with France. Sardinia announced through her minister the birth of a royal prince. All were received with courteous reciprocity. For America was reserved insult. For her late envoy, caresses.

Monroe was the last figure in this pageant. He mentioned his recall, and that he was instructed to announce the solicitude of the United States for the happiness of the French Republic;—remarked that he was a witness of the revolution in his own country, and was deeply penetrated with its principles, which were the same with the revolution of France; that he had seen its difficulties; and remembering these, and the important services rendered by France, he had partaken with them in all the perilous and trying situations in which they had been placed. Having arrived in a moment of complicated danger, he, with the most heartfelt satisfaction, on taking leave, beheld victory and the dawn of prosperity upon the point of realizing, *under a wise and excellent constitution*, all the great objects for which, in council and in the field, they had so long and nobly contended. That this information would be received by his countrymen with the same joy and solicitude for its continuance, he now felt and declared for himself. The continuance of a close union and perfect harmony between these two nations was an object he had closely at heart, which he had ever endeavored to promote; and he asked to be permitted to express an earnest wish that this harmony might be perpetual. He offered his acknowledgments for the confidence and attention he had enjoyed, and his assurance, that he should never cease to pay them, the only acceptable recompense to generous minds, the tribute of a grateful remembrance.

Barras replied, "By presenting this day your letters of recall you offer a very strange spectacle to Europe. France, rich in her freedom, surrounded by the train of her victories, and strong in the esteem of her allies, will not stoop to calculate the consequences of the condescension of the American government to the wishes of its ancient tyrants. The French Republic expects, however, that the successors of Columbus, Raleigh and Penn, always proud of their liberty, will never forget that *they owe it to France.* They will weigh in their wisdom the magnanimous friendship of the French people, with the crafty caresses of perfidious men, who meditate to bring them again under their former yoke. Assure the good people of America, that like them we adore liberty; that they will always possess our esteem, and find in the French people, that republican generosity knows how to grant peace, as well as to cause its sovereignty to be respected. As for you, Mr. Minister, you have combatted for principles. You have known the true interests of your country—depart with our regret. We restore in you, a representative to America, and we preserve the remembrance of the citizen, whose personal qualities did honor to that title."

The ceremony ended, and these ambassadors were seen following the Directory, one by one, to the more public hall, where, amid the loud applauses of the populace, the Austrian flags captured at the recent battle of Arcola were laid at their feet.

General Pinckney meanwhile remained in Paris, uncertain how soon the threats of his imprisonment might be fulfilled, but resolved to await a written order to depart. The day after, information being received of the battle of Rivoli, in which a fifth Austrian army was destroyed, official notice was given to him in writing, to

quit the territories of the Republic. He repaired to Amsterdam.

These extraordinary events were unofficially known in the United States on the eleventh of March. While amazed resentment held the nation in suspense, then was seen how rank was the poison which had been infused by France. The Democratic presses foretold, they now defended the gross insulting interdiction. The "Aurora" asserted, that before tranquillity could be restored, "the sins of the late administration must be buried;" while to reconcile the people to the insults to Washington, it basely charged him with the assassination, when in the colonial service, of a French herald. The rejection of Pinckney was declared to be "a natural consequence of the suspension of Adet, the act of his own government." The reception of an ordinary minister, it was stated, "could not be expected; as France was determined to avenge herself for our treatment, it betrayed ignorance or folly to believe, that he would have been recognized." Thus it was attempted to fulfil the expectation of the Directory, that this rejection "would give rise to discussions which might afford a triumph to the party of good republicans—the friends of France."

Widely different were the genuine sentiments of those of that nation whose voices rose above tumult and tyranny. At an opening of the council of five hundred, several members rushed to the Tribune. Cries of "Order," "Order," "to your places," were repeated in vain. The Tribune was besieged—extreme agitation ensued. Altercations were heard on every side;—amid these violent clamors, a member reached the Tribune. He was seized by the throat. A scuffle followed, until the assailant was thrown down its steps amidst cries of "Order," "to the abbey"—deafening the assemblage. After a day occu-

pied in restoring silence, PASTORET ascended, and asked their attention to the conduct of the Directory towards the United States.

Having alluded to the suspension of Adet and to the mission of Pinckney, he remarked, "America—America has a man, who, the brave defender of the liberty of his own country—happy in having contributed to excite and to confirm, has always preserved for us, whose succors protected her successes, an unalterable sentiment of gratitude and fraternity. A man who could be the less suspected of predilection for Great Britain, because during the American war his possessions were always the first to be ravaged and burned. Restored to his fields, on the conclusion of peace with the ancient oppressors of his country, he lived in privacy, far removed from all public functions. It was there that he was sought by his government to become the mediator between two people whom he loved, and the pacificator of America. He might have brought complaints. He wished only to offer explanations. He comes to enlighten the French government as to the conduct of its agents and their calumnies towards his country. He comes to calm animosities of which the eclats threatened the repose of two worlds. He arrives, and is instantly ordered to quit France. It is not Pinckney whom they repulse. It is the government of which he is the minister, and the organ.

"And what at the same time have we been doing? Our agents at St. Domingo, announce to the minister of marine, that having no other financial resources, and knowing the unfriendly dispositions of the Americans, they had, to avoid perishing, armed privateers; that already eighty-seven corsairs were at sea; and that, for three months the administration had subsisted, and indi-

viduals had been enriched by the product of their prizes. They assured him, that it required all their devotion and their patriotism not to be checked by any *pusillanimous* considerations. That the revolting conduct of the Americans and the indirect evidence of the intentions of the government made it their duty to order reprisals—corsairs armed against a friendly nation! Reprisals! when we are the assailants. Reprisals towards a nation which has not taken one of our vessels! Wealth acquired by the confiscation of the vessels of a people with whom treaties unite us; from whom no declaration of war separates us.

"What is the pretext? The treaty with Great Britain! Are we then the sovereigns of the world? Are our allies only our subjects, who cannot form treaties at their will?

"It is astonishing, indeed, to hear the French government accuse the United States of hostility, when, without a declaration of war, they are capturing all their vessels.

"Were not the United States the first to acknowledge our liberty? Do not these piracies proceed from St. Domingo, to whose flying colonists they offered an asylum? Are these agents, agents of the West Indies, whom the bread of our ally rescued from famine?"

CHAPTER CXXXVII.

The intelligence of the rejection of Pinckney was confirmed by an arrival at New York on the twenty-first of March. The following day, Hamilton, feeling how much the delicacy of the public measures had been increased by the delay to act upon his earlier suggestions, wrote to the Secretary of State:

"It is now ascertained, that Mr. Pinckney has been refused, and with circumstances of indignity. What is to be done? The share I have had in the public administration, added to my interest as a citizen, make me extremely anxious that at this delicate crisis a course of conduct exactly proper may be adopted. I offer to your consideration, without what appears to me ceremony, such a course:

"First. I would appoint a day of humiliation and prayer. In such a crisis this appears to me proper in itself, and it will be politically useful to impress our nation that there is a serious state of things—to strengthen religious ideas in a contest which in its progress may require that our people may consider themselves as the defenders of their country against atheism, conquest, and anarchy. *It is far from evident to me that the progress of the war may not call on us to defend our firesides and our altars.* And any plan which does not look forward to this as possible, will, in my opinion, be a superficial one. Second. I would call Congress together at as *short a day* as a majority of both houses can assemble. Third. When assembled, I would appoint a commission extraordinary to consist of Mr. Jefferson or Mr. Madison, together with Mr. Cabot and Mr. Pinckney. To be useful it is important that a man agreeable to the French should go. But

neither Madison nor Jefferson ought to go alone. The three will give security. It will flatter the French pride. It will engage American confidence, and recommend the people to what shall be eventually necessary. The Commissioners should be instructed to explain, to ask a rescinding of the order under which we suffer and reparation for the past—to remodify our treaties under proper guards. On the last idea I will trouble you hereafter.

"Fourth. The Congress should be urged to take defensive measures. Those to be: 1st. An *embargo* unless with convoy by special license. Additional revenue for additional expenses. 2d. The creation of a naval force—including the prompt purchase and equipment of sloops of war. This force to serve as convoys to our trade. 3d. Commissions to be granted to our merchant vessels authorizing them to arm to defend themselves, to capture when attacked, but not to cruise. The same instructions to our convoys. 4th. The organization of a provisional army of twenty-five thousand men, to be ready to serve if a war breaks out—in the mean time to receive certain compensations, but not full pay. The actual increase of our establishment in artillery and cavalry.

"The following considerations appear to me weighty. The Empress of Russia is dead. Successors are too apt to contradict predecessors. The new Emperor may join Prussia. The Emperor of Germany, by this mean or by the fortune of war, may be compelled to make peace. England may be left alone. America may be a good outlet for troublesome armies which the government is at a loss to manage. The governing passion of the rulers of France has been revenge. Their interest is not to be calculated upon. To punish and humble us—to force us into a greater dependence may be the plan of France. At any rate, we shall best guarantee ourselves against calamity by preparing for the worst. In this time of general convulsion, in a state of things which threatens all civilization, 'tis a great folly to wrap ourselves up in a cloak of security. The Executive, before Congress meet, ought to have a *well-digested* plan, and to co-operate in getting it adopted."

Colonel Pickering answered, that the calling of Congress had been determined on by the President, and "that some other of the measures suggested had been contemplated, and all would receive attention from him-

self and his colleagues." "The appointment of a commission," he said, "was more than doubted. It was precluded by the language of France, and was a measure which the enemies of the government wished, however circumstances may oppose it." *

Intent on the preservation of peace, Hamilton also, immediately after the installation of Adams, urged Tracy, then high in the confidence of the President, to propose to him a commission, of which Jefferson or Madison was to be one, and when "Commissioners were appointed," advised "that indemnification for spoliations, should not be a *sine qua non* of accommodation." †

The same measures were suggested to the Secretaries of War and of the Treasury, ‡ supported by similar reasoning. Hamilton wrote to McHenry from Albany:

"Do as much of all this as you can—make a last effort for peace, but be prepared for the worst. The Emperor Paul is at best equivocal—a successor is apt to differ from a predecessor. He seems to be a *reformer* too. Who can say into what scale his weight may finally be thrown? If things shall so turn that Austria is drawn to make peace and England left to contend alone, who can guarantee us that France may not sport in this country a proselyting army? Even to get rid of the troops, if it fails, may be no bad thing to the government of that country. There is a *possible* course of things which may subject us even to an INTERNAL INVASION by France. Our calculations, to be solid, should contemplate this possibility.

"I know in your administration there is a doubt about a commission or envoy extraordinary. I am very sorry for it, because I am sure it is an expedient measure. But perhaps France has said she

* Ames observed—"Negotiations will be honorable, if we arm and prepare force and revenue; and useful, if the public is made to look to the issue as depending on the French."

† Hamilton's Works, vii. 724.

‡ Hamilton to Wolcott, March 30, 1797. Gibbs' Administration of Washington and Adams, i. 484.

will receive no minister till her grievances shall be redressed. 'Tis hardly possible this can refer to any but a *minister who is to reside.* A *special extraordinary* mission cannot be intended to be excluded, because it is at least necessary to know what measure of redress will satisfy, if any is due. But grant she will refuse to hear—still the great advantage results of showing in the most glaring light to our people her unreasonableness, of disarming a party of the plea that all has not been done which might be done—of refuting completely the charge that the actual administration desires war with France. But the enemies of the government desire the measure. 'Tis the strongest reason for adopting it. This will meet them on their own ground, and shut their mouths.

"But to answer the end, a man who will have their confidence must be sent—Jefferson or Madison. To do this and to be safe, others must be united, say Pinckney and Cabot. Hence the idea of a Commission. I am really anxious that this should be your plan. Depend on it, it will unite the double advantage of silencing enemies, and satisfying friends."

He offered an additional reason to Pickering, observing—

"If I were certain that they would not hear the commission, it would not prevent my having recourse to it. It would be my policy, if such a temper exists in them, to accumulate the proofs of it with a view to Union at home. This Union (I do not expect to proselyte all the leaders of faction) appears to me a predominant consideration, and with regard to France, more than ordinary pains are requisite to attain it. The estimation of the merit of all our past measures depends on the final preservation of peace. This, besides the interest of the country in peace, is a very powerful reason for attempting every thing. The best friends of the government will expect it, and if this expedient be not adopted, it seems to me, rupture will inevitably follow." "I cannot but add that I have not only a strong wish, but an *extreme anxiety*, that the measure in question may be adopted."

Colonel Pickering prepared a statement of the treatment of Pinckney with a view to publication. He hoped, that—

"An exposure of the depredations and the indignities which had been suffered would remove from the people their ill-founded and ill-requited attachment to France, and even excite such a spirit of just resentment and pride as would effectually control certain men who have seemed willing to chain us to that republic, and make us lick the feet of her violent and unprincipled rulers."

He consulted Hamilton as to the propriety of its being made public. His advice * was, that it should be withheld, for the reasons—

"That an opinion is industriously circulated that too much fuel has been added to the publications of the Government; that it is best to avoid inofficial publications of official matter; and that it might be useful to reserve the disclosure till the meeting of Congress, when the accumulation of insult may be the instrument of giving a stronger impulse. Such," he added, "is the infatuation of a great part of our community, that it will be policy in our government to do a great deal too much to make the idea palpable that rupture was inevitable."

The exertion of his influence was not confined to the Cabinet. He wrote to William Smith, recapitulating the reasons for a commission:

"The idea is a plausible one, that as we sent an envoy extraordinary to Britain, so ought we to send one to France. And plausible ideas are always enough for the multitude." "These and other reasons," he said, ("and principally to avoid rupture with a political monster, which seems destined soon to have no competitor but England,) make me even anxious for an extraordinary mission; and to produce the desired effect, it seems to me essential that it shall embrace a *distinguished* character, agreeable to France, and having the confidence of the adverse party. Hence I think of Madison, but I think of him only as *one*, because *I would not trust him alone.* I would unite with him Pinckney and some strong man from the North. Jay, *Cabot*, and two of the three should rule. We should then be safe. I need not tell you, that I am disposed to make no sacrifices to France. *I had rather perish myself and family than see the country*

* April 1, 1797.

disgraced. But I would try hard to avoid rupture, and, if that cannot be, to unite the opinion of all good citizens of whatever political denomination. This is with me a mighty object. I will give you hereafter my ideas of what ought to be done when Congress meet. My plan ever is to combine *energy* with *moderation.*"

The propriety of a commission was also doubted by Smith. He wrote:

"If a majority be anti-Gallicans, the party will not be gratified; we shall place an enemy in the commission, without acquiring their support. If the majority be Gallicans, we give up the game. There are serious constitutional objections against Jefferson as Commissioner, and Madison has done so much to prostrate this country at the feet of France, that I fear his appointment would appear humiliating and give disgust to our friends." He also doubted the acceptance by either of the mission, unless as sole envoy; and proposed that Pinckney should receive a new commission as envoy extraordinary, with a clever man as his Secretary."

Hamilton replied on the tenth of April:

"I send you my ideas of the course of conduct proper in our present situation. It is unpleasant to me to know that I have for some time differed materially from many of my friends on public subjects; and I particularly regret that at the present critical juncture, there is, in my apprehension, much danger that *sensibility* will be an overmatch for policy. We seem now to feel and reason as the Jacobins did when Great Britain insulted and injured us, though certainly we have at least as much need of a temperate conduct now as we had then. I only say, God grant that the public interest may not be sacrificed at the shrine of irritation and mistaken pride. Farewell."

Wolcott also wrote to Hamilton:

"The President had determined on instituting a Commission, *but it would not have been composed as you now propose.* By means of my most sincere and urgent expostulations, nay supplications, it was postponed. If Cabot, or a man of his principles, were to be associated with Mr. Madison, either nothing would be done or something worse

than nothing. Mr. Madison would insist on a submission to France, or would obstruct a settlement, and throw the disgrace on the friends of Government. You know that I am accustomed to respect your opinion, and I am not so ignorant of the extent of your influence, as not to be sensible, that if you are known to favor the sending of a commission, *so the thing must and will be.* Is it necessary that the mission should proceed directly to France, and must Mr. Madison be a member? The idea of a mission consisting of Mr. Madison or any man like him, I must own to you is one which I can never adopt without the utmost reluctance. I have no confidence in Mr. Madison. He has been a frequenter of Adet's political meetings, and I have just been informed that Adet has suggested the idea of sending him."

Hamilton answered:

"I hope nothing in my last is misunderstood. Could it be necessary, I would assure you that no one has a stronger conviction than myself, of the purity of the motives which direct your public conduct, or of the good sense and judgment by which it is guided. If I have a fear (you will excuse my frankness) it is, lest the strength of your feelings, the companion of energy of character, should prevent that pliancy to circumstances which is sometimes indispensable. The situation of our country, my dear sir, is singularly critical. The map of Europe is every way discouraging. There is too much reason to apprehend that the Emperor of Germany, in danger from Russia and Prussia, perhaps the Porte, as well as France, may be compelled to yield to the views of the latter. England standing alone, may be driven to a similar issue. It is certain, that great consternation, in court and country, attended the intelligence of Bonaparte's last victories. Either to be in rupture with France, united with England alone, or singly, as is possible, would be a most unwelcome situation. Divided as we are, who can say what would be hazarded by it? In such a situation it appears to me we should rather err on the side of condescension than on the opposite side. We ought to do every thing to avoid rupture without unworthy sacrifices, and to keep in view as a primary object,—UNION AT HOME. . . . I agree with you that we have nothing to retract—that we ought to risk every thing before we submit to any dishonorable terms. But we may remould our treaties—we may agree to put France on the same footing as Great Britain by our treaty with her. We may also liquidate with a

view to *future wars* the import of the mutual guarantee in the treaty of alliance, substituting specific succors and defining the *casus fœderis*.

"I am clearly of opinion with you, that the President shall come forward to Congress in a manly tone, and that Congress shall adopt vigorous defensive measures. * * * If Madison is well coupled, I do not think his intrigues can operate as you imagine. Should he advocate dishonorable concessions to France, the public opinion will not support him. His colleagues, by address and showing a disposition to do enough, may easily defeat his policy, and maintain the public confidence. Besides that, it is possible too much may be taken for granted with regard to Mr. Madison."

A few days after he again wrote him:

"I am just informed that an order is come to the custom house, not to clear out any vessels if armed, unless destined for the East Indies. Under the present circumstances, I very much doubt the expediency of this measure. The excesses of France justify passiveness in the government, and its inability to protect the merchants, requires that it should lead them to protect themselves. Nor do I fear that it would tend to rupture with France, if such be not her determination otherwise. The legality of this prohibition cannot be defended; it must stand on its necessity. It would, I think, have been enough to require security that the vessel is not employed to cruise against any of the belligerent powers. Perhaps even now, where vessels have been armed previous to the receipt of the prohibition, it is safe and advisable to except them on the condition of such security. Think of this promptly. The general measure may be further considered at leisure. Nor am I prepared to say, that having *been taken*, it ought to be revoked."

The pertinacity with which Hamilton urged upon the different members of the Cabinet the adoption of decisive measures, proceeded not only from the want of purpose manifested by the last Congress, but from the prevailing distrust of the recently elected President. This distrust, almost universal at the South, was also felt in New England, notwithstanding their strong sectional prepossessions in favor of a candidate from among themselves. The Governor of Connecticut wrote:

"We have chosen a very honest man, a friend to order and to our national independence and honor; but that you may know that I am not mistaken, I will for once, under a strong seal, venture to tell you that I always considered Mr. Adams a man of great vanity, pretty capricious, of a very moderate share of prudence, and of far less real abilities than he believes he possesses. I therefore sincerely wish he may have able counsellors, in whom he will confide; though, as he will not be influenced but by an apparent compliment to his own understanding, it will require a deal of address to render him the service which it will be essential for him to receive."

Wadsworth remarks:

"I consider our legislature is composed of very discordant materials. Our Executive I do not like to describe, as I try to hope I am mistaken in my opinion of it; but I confess I do not see how they will be able to conduct the political ship."

Said Ames:

"I cannot but lament that the public sentiment receives no good impression from the legislature, and no sufficiently strong one from the Government. The national spirit is yet lower, and popular error more inveterate, in my calculations, than in those of my friends. Before Congress meets, there will be room for opinion to fix itself, instead of being fixed, as it ought to be, by those at the head of affairs."

In the interval between the issuing the proclamation convening Congress and its meeting, the public mind was much agitated.

The Democratic leaders, fearing that the people would sustain the Administration, circulated the rumor, that it was bent on war. In the Southern States, alarms were spread, that the French would invade their soil, and arm their slaves. In the North, to divert attention from France and excite animosity to England, the impressment of American seamen was the theme of continued clamor.

Was indignation expressed towards France, it was

denounced as the language of a British faction seeking to tie the fate of America to the sinking fortunes of Britain. The arming of merchantmen for their protection, while the sea swarmed with privateers, was "inviting hostilities to our peaceful shores." The people were told, that the French had been irritated by every means in the power of this faction—by neglect—insult—injury. They had only refused to receive a resident minister until their complaints should be adjusted by an envoy with sufficient powers. The view taken by Barras was applauded, as a a just view of the past situation of the country.

As contrasted with Washington, Adams was again highly eulogized. "In vain, efforts were made to give him impressions hostile to the wishes and interests of the people." "He had," it was said, "too much virtue and too much patriotism to receive them." Acting as "a true republican, he does not artfully conceal the measures which are to be adopted under pretence of obtaining advice from the heads of departments, but like the Executive magistrate of a free people, wishes to know their will before he presumes to carry into execution decisive measures involving their happiness." Hamilton was calumniated, as being hostile to the assembling of Congress, and as thinking the former President would never have *convened* them. Adams and Jefferson were applauded for the perfect understanding which subsisted between them, promising "harmonizing principles" at this critical juncture.

To warp "the jealous mind" of Adams, and beguile him from his duty, was a stroke of policy worth every effort. His leaning to Gerry was well known. It was a channel through which he might be safely approached. As soon as Jefferson arrived at Philadelphia, he availed himself of the opening which had been made.

"You express apprehensions," he wrote to Gerry, on the thirteenth of May, "that stratagems will be used to produce a misunderstanding between the President and myself. Though not a word having this tendency has ever been hazarded to me by any one, yet I consider it as a certainty that nothing will be left untried to alienate him from me. These machinations will proceed from the Hamiltonians by whom he is surrounded, and who are only a little less hostile to him than to me. It cannot but damp the pleasure of cordiality, when we suspect that it is suspected." "I cannot help thinking that it is impossible for Mr. Adams to believe that the state of my mind is what it really is —that he may think I view him as an obstacle in my way."

This letter closed with strong expressions of his preference of a ground "perfectly neutral and independent towards all nations." But he averred that England "was not content with equality," and was sustained by "*factitious* citizenships;" that "these *foreign* and false citizens constituted the great body of the merchants, who were advancing fast to a monopoly of the banks and public funds, and thereby placing our finances under their control; and who have in their alliance, the most influential characters in and out of office."

Yet five days after,* he wrote to Madison, "France has asked of Holland to send away our minister from them and to treat our commerce on the plan of the late decree. The Batavian Government objected—their commerce, their money in our funds. France acquiesced. I presume that France has made the same application to Spain. * * * Monroe is expected."

Few of Jefferson's letters are more characteristic of him than that to Gerry. The President's dislike to Washington—his animosity to Hamilton—his prejudices against England—his jealous suspicion of yielding to influence—are all artfully played upon; while, with malignant cun-

* May 18.

ning, under the phrase, "the most influential characters in and out of office," he villifies the members of the Cabinet and the leading Federalists.

His calumny of his opponents is the more strongly marked by the fact, that at the very time when it was penned, Hamilton was exerting his influence to induce another negotiation with France.

Pickering continued to entertain strong doubts of the policy of a *joint* mission on various grounds. He apprehended, that the leading Federalist proposed, would fear to disclose his sentiments, lest they should "be betrayed to the French" by his democratic colleague; he questioned the probability that France would view it in a favorable light; doubted the assent of Jefferson or Madison; the former he viewed as out of the question; the latter he was unwilling to trust.

Hamilton wrote:*

"On my return here (from Albany) I found your letter of the twenty-ninth. The sitting of a Court of Chancery, and important business there, have unavoidably delayed a reply. Now it must be much more cursory than I could wish.

"As to the mission, in some shape or other, the more I have reflected upon it, the more has it appeared to me indispensable. To accomplish with certainty a principal object of it—the silencing of Jacobin criticism and promoting union among ourselves—it is *very material* to engage in it a person who will have the Jacobin confidence. Else, if France should still refuse to receive, or if receiving the mission, should prove unsuccessful—it will be said that this was because a suitable agent was not employed. Hence my mind was led to Jefferson or Madison. But, as it would be unsafe to trust either alone, the idea of associates occurs as an essential part of the plan. This likewise is an expedient for saving Mr. Pinckney's feelings.

"But will either of them go on this footing? If offered, and they refuse, they will put themselves in the wrong. For on so great an

* May 11.

emergency, they cannot justifiably decline the service without a reason; and it would not be a good reason for refusal, that ther to be a *commission*. The refusal, too, if it happened, would furn reply to Jacobin clamor. It was offered to your leaders, and would not act.

"I confide in Pinckney's integrity and federal attachments. then name a third? Because, 1st. Two may disagree and there be *inaction*. 2d. Though I have the confidence I mention, I Pinckney has had too much French leaning to consider him, in junction with Jefferson or Madison, as perfectly safe. A thi whom perfect reliance could be placed, would secure Pinckney operation. * * As to the two gentlemen named (Jefferso Madison), it may be fairly observed to either of them, that the bination of character is essential to combine the confidence c country, and to render the result, whatever it may be, acceptabl may also be observed, that delicacy to Mr. Pinckney dictates course,—not to exclude him after what has happened. To Mr. P ney the state of parties here may also be pleaded. The Frenc rectory may also be made to understand, indirectly, that the as tion has proceeded from a desire in the Executive to unite confi in the mission, and secure its success at home.

"I should not despair that in such a crisis men of opposite p might agree. I verily believe that Jefferson, Pinckney and would agree. There might be a *joint* commission for action a separate commission to Jefferson, as envoy or ambassador extra nary, for *representation*. I miscalculate, if Jefferson will n anxious for peace. I only fear, that alone he would give too for it.

"If this plan is thought liable to too strong objections—the best thing is to send the commission of ambassador *extraordina Pinckney*, and send him also some clever fellow as Secretary of bassy. But I repeat it, with extreme solicitude, another missi absolutely indispensable.

"On the subject of permitting our vessels to arm, there is difficulty. You are right in the idea, that merchant vessels unde convoy of ships of war are exempt from search. But I know no where it is to be found. Yet I have so constantly understood it the usage, that I venture to rely upon it. But I believe the priv is confined to *public ships* of war, and could not, according to u

be transferred to private armed vessels. The measure must therefore be justified by the extremity. *Moreover*, I understand no other consequence as resulting from the being armed, than that it exposes the vessel to confiscation for resisting a search. It is no breach of neutrality to permit the being armed. But I would avoid the *formality* of a commission, and would substitute some *permit* perhaps, to be signed by the head of a department. This should be united with great precautions to prevent *abuse* by cruising, by driving *contraband trade*, by transfers to foreigners. At all events our trade must have protection. For our whole mercantile capital will else be destroyed—our seamen lost, and our country involved in extreme distress.

"As to a provisional army, I reason thus;—No plan of a militia which is not the equivalent; in other words, which is not under a positive engagement to constitute a *permanent army in case of invasion*, will be worth any thing. For we want a stable force created beforehand to oppose to the first torrent; which, with mere militia, would involve incalculable dangers and calamities. Hence, as a substitute for a standing army, I offer a provisional one. It would be composed thus—

"The *officers* to be *appointed by the United States*, and rank with those of the establishment,—to receive some pay till called into actual service, say half, a third, or a fourth,—those employed to recruit to be fully paid. The men to be regularly *enlisted* upon condition not to be called into actual service, *except in case of invasion;* and then to serve during the war. To receive a uniform coat and a *dollar*, perhaps *two dollars* per month when not in the field,—to be obliged to assemble for exercise so many days in the year; and then to have full pay and rations. When called into actual service, to have the same compensation, &c., with the establishment; in short to become part of it—to be armed by the United States—to be liable from the beginning to the articles of war. I think such a corps, from the *certainty of advantage*, and the *uncertainty* of *service*, might be engaged sooner than a standing force; and, with precautions in the enlistment, would be a solid resource in case of need.

"I am much attached to the idea of a large corps of *efficient* cavalry; and I cannot allow this character to militia. It is all important to an undisciplined against a disciplined army. It is a species of force not easy to be brought by an invader; by which his supplies may be cut off, and his activity extremely checked. Were I to command an

undisciplined army, I should prefer half the force with a good corps of cavalry,* to twice the force without one. †

Two days after, he again wrote to the Secretary of State, stating, that the Emperor of Austria, in consequence of a combination between Prussia and France, had been driven to the necessity of making an *immediate peace for the safety of the empire*. "This intelligence confirms the expediency of a further attempt to *negotiate*, but I hope it will not carry us too far. A firm and erect countenance must be maintained, and the vigor of preparation increased. Safety can only be found in uniting energy with moderation. Honor certainly is only to be found there; and either as a *man* or *citizen*, I, for one, had rather perish than submit to disgrace."

This forced peace of Austria was produced by the fall of Mantua, which gave Italy to France, whose hopes were raised by a mutiny of the British fleet, and by the failure of the Bank of England, occurrences, which, in order to sway the mind of the President, through the power of popular sentiment, were celebrated by the Democratic party in the United States, with triumphant festivals. But Adams had too strong a sense of national honor to be thus misled. Although he finally acquiesced, he at first hesitated, with an honorable doubt, whether a new mission could be instituted without national debasement; and addressed Congress in a tone equal to the crisis.

In obedience to the President's proclamation, that body met in extra session on the fifteenth of May. Having mentioned the sincere effort made by Washington in the mission of Pinckney to remove the discontents of

* Mareschal Saxe calls cavalry "Arme du moment."

† An accordance of views is seen in a letter of Ames to Wolcott of April 24, 1797. Gibbs i. 407.

France, he stated the circumstances of his being repulsed from Paris. The refusal to receive a minister he pronounced a "denial of a right"—"the refusal to receive him by France, until her demands were acceded to, without discussion and without investigation, was to treat us, neither as allies, nor as friends, nor as a sovereign State." In the language of Barras, he saw sentiments "more alarming than this refusal, because more dangerous to our independence and Union; studiously marked with indignities towards the Government; designed to separate the people from the Government, and to be repelled with a decision which will prove that we are not fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest."

He communicated his intention to institute another mission to France, adverted to a recent decree contravening the treaty, and recommended measures of defence—a naval establishment—the regulation of private vessels armed for the purpose of defence; the equipment of the frigates, and a provision of vessels of inferior force to sail as convoys; the fortification of the seaports to guard against sudden incursions; an increase of the cavalry and artillery—arrangements for a provisional army, and a vigorous augmentation of the revenue. In all these recommendations, it is seen, that the suggestions of Hamilton to the Cabinet governed.*

* May 14, 1797. McHenry wrote to Hamilton: "I received your letters and papers. I added to them, but changed nothing, for the train of ideas in both ran in the same channel and embraced the same objects. The speech extenuates nought,—recommends proper measures, promises a fresh attempt at negotiation, and declares the principles by which the administration mean to be governed—in other words, that the President will follow the principles of the late administration. It is not perhaps precisely such a speech as you would have written—a little too plain. It may, however, be better fitted on that account for the occasion."

The French decree alluded to in the Speech gave u equivocal evidence of the feelings engendered in t Councils of France by the Democratic party. Restraine by the advice of Monroe, from acts of immediate a more direct insult and violence, in hope of the election Jefferson, France issued this decree, immediately after r ceiving intelligence of his defeat. It declared enemi goods in neutral vessels lawful prize, gave to the Minist of Justice the power of deciding whether the treaties wi neutrals affected by it still subsist, or had been modifie declared that the treaty with the United States had be modified by the recent treaty with Great Britain—add to the articles of contraband those enumerated in th treaty—declared every American holding a commissi from the enemies of France, as well as every seaman board such vessels, a *pirate*—"*without suffering the pa to establish that the act was the consequence of threats violence;*" and enforced the requisition in the treaty seventy-eight as to the evidence of neutral property, w additional restrictions.

The Senate, though many of its members we changed, evinced the same elevated temper with th predecessors. Their address fully accorded with t Speech. They declared their belief, that the conduct the Government had been just and impartial to forei nations, and that the internal regulations, which had be established to preserve peace, were proper, and had be fairly executed. An unsuccessful effort was made to e punge this declaration.

In the House of Representatives an Address of a si ilar import was presented, when an amendment propos by Nicholas, and framed with a subtlety not his own, ga rise to a vehement debate. It expressed a desire for t continuance of peace, regret as to the dismissal of Pin

ney, a belief that an ordinary negotiation was intended to be suspended to bring into operation an extraordinary mission; satisfaction at the prospect of a negotiation; confidence that a mutual spirit of conciliation and a disposition to place France on the footing of other countries, by removing the inequalities which may have arisen in the operation of our treaties with them, would produce a proper accommodation; a disbelief of any serious expectation on her part of withdrawing the support of the people from their constitutional agents; and indignation, if any such attempt *should be* made.

The objects of this amendment were, to weaken the impression of the Speech; to divert attention from the conduct of the French as to the treaty with Great Britain; and to prove, that France had by that treaty and by the act of seventeen hundred ninety-four to preserve neutrality, suffered injuries, indicating hostility to her, and predilection for Great Britain. In support of it, the pretensions of Adet were largely defended; and it was insisted, that all the measures proposed by the Executive had in view an eventual appeal to arms.

War the opposition earnestly deprecated; urged, as a preventive measure, the stating to France their ultimatum, and taking the consequences. Was this course pursued, Giles declared, "he should not be one of those that would ask others to support his opinions, he would stand by his country in the storm, and share its fate."

The Federalists pronounced this amendment an entire and unworthy concession to the insolent demands of the Directory; declared that the answer ought not to be a spiritless expression of civility, but should manifest their determination to sustain the violated rights and honor of the nation. War they did not seek, but preparations for self-defence, should a second negotiation fail. They de-

nied the allegation, that any inequality existed to France, as the treaty with Great Britain express served in full force, the provisions of that of seve hundred seventy-eight. They repelled the assertio Pinckney was rejected, for the reason that he was i vested with extraordinary powers, because the Dir knew his character before they received his lett credence, and had offered him designed indignities. conduct of France was truly to be imputed to th on the treaty with England, and to the feeble Addr the previous session, which exhibited a timid relu to express our sense of injury. As to the act of s teen hundred ninety-four, which Fauchet asserte "wounded liberty," and of which Adet had compl it was an act to protect from invasion, suppress ins tion, prevent revolution.

After a long debate, the proposed amendment w jected, but the assurance of a disposition to place F on the same footing with other countries was ret with the qualification, if any inequalities should be to exist.

An amendment was then offered by which an e tation was expressed, that France would make co sation for the injuries committed on the neutral rig the United States. This amendment was oppose some on the ground that it was an interference wit Executive, by others, as leading to war.

Giles said, "this proposition would serve to pe the business instead of dissipating difficulties. We w demand from France compensation for spoliations or v We will go to war, for that must be the conseque Gallatin hoped this proposition would not have brought forward. If they voted in favor of it, they b be saying, if you do not allow compensation for inj

we will seek other redress. If against, it would appear as if they intended to abandon the claim. He was in favor of making some concessions, but as war must be the consequence if France refused to comply, he must vote *against* the amendment. Bayard was surprised, after it had been recommended to the President to make certain concessions to France, that a provision in favor of our own citizens should be opposed. "Surely to express the hope that France would compensate our wrongs, could not give offence."

"When we call upon you," Smith observed, "for your views, you reply, 'we must concede to France the article respecting free ships—but you must not speak of spoliations—that would be an 'ultimatum.' You ask, why should we triumph in your dilemma? You then confess it. What is that dilemma? You do not wish to ask for indemnification, lest you should admit that we had received injuries from France. Would you justify those injuries? Do you allege that the Executive has provoked them? To demand compensation, you assert, will involve a war, yet you expect the Executive to make such a demand. Does not this hold out the idea, that this House is for peace and the Executive for war? This had not been said, but it had been continually insinuated. We will usurp the right of making a peace proposition, but we will throw the obloquy of the war proposition upon the Executive—we will hold out the olive branch, but the Executive shall brandish the sword. When British spoliations were complained of, you proposed sequestration, a prohibition of commercial intercourse—but now *we* are not to express a *hope* for redress. *You* call this an offensive proposition. *We* think, that to *cherish* a *doubt* that it will be granted would be a greater insult. To betray fear, to evince an utter want of spirit

to resent our wrongs, would render the negotiation a mockery."

The attempt to avoid a vote on this proposition was made by a motion for the previous question; but the House having, by a majority of three voices, sustained this amendment, the main question on the Address was called. Gallatin said, he was now compelled to choose between two evils. He had thought to require compensation, would, if it were refused, produce war;—but those who supported it, gave it a different construction. He therefore would take it in their sense, and *vote* for it, though he had rather no vote had been taken upon the occasion.

It was moved to strike out the clause which approved of the principles of the previous administration. This motion was defeated, but gave rise to an angry debate. It was declared to be "a more artful and insidious attempt than any other which had been made, and, in allusion to Gallatin, that there was American *blood* enough to approve of the clause, and American *accent* enough to pronounce it." The Address finally passed by a large majority.

A letter from Jefferson of this period shows his impressions. After recommending the "Aurora" and other gazettes to support, he proceeds:

"In fact, I consider the calling of Congress so out of season, as an experiment of the new administration to see how far, and in what line, they could count on its support. Nothing new had intervened between the last separation and the summons, for Pinckney's nomination was then known. It is visible, from the complexion of the President's speech, that he was disposed or perhaps advised, to proceed in a line which would endanger the peace of our country; and, though the Address is nearly responsive, yet it would be too bold to proceed on so small a minority. The first unfavorable event, and even the necessary taxes would restore preponderance to the scale of peace." He

then suggests a land tax, contingent on State *quotas*, as a plan that "would tend to make the general government popular, to render the State legislatures useful allies and associates, instead of degraded rivals, and to mollify the harsh tone of Government, which has been assumed. * * * It will be opposed by those who are in favor of a *consolidated government*." *

Well he might have anticipated opposition, to such a compromise—and whom, it has been asked, does he mean by those "in favor of a *consolidated government*"? The letter of Washington, addressed, in behalf and in the name of the Convention which formed the Constitution, to Congress, submitting this Constitution, explicitly states, that in all its deliberations, it "kept steadily in view that which appears the greatest interest of every American, *the consolidation* of our Union," and Jefferson has been seen enumerating, as what he approved, "in the new Constitution"—"*the consolidation of the government*." † Had any thing in its history shown that this was its true danger?

During the progress of this debate, the Administration had been much occupied in consultations as to the mode in which the pledge given by the President to institute a new negotiation with France should be fulfilled. To the suggestions of Hamilton in favor of a joint mission, to be composed of two Federalists and one Democrat, the objections in the Cabinet were strong. The distrust of Jefferson and Madison were not to be overcome. In place of either of these persons, the President was much inclined to confer the appointment on Elbridge Gerry. This selection was earnestly dissuaded.

It will be recollected, that Gerry was among the number of those who had opposed the adoption of the

* Jefferson to Peregrine Fitzhugh. June 4, 1797.

† Jefferson's Works, ii. 439.

Constitution, both in the General and State Conventions. At the first election of the Senate of the United States, his friends designed to present him as a candidate—but he had lost the confidence of the Federalists; and to avoid the mortification of defeat,* he was not brought forward. He became a candidate for a seat in the House of Representatives, and was at first defeated. A second election was had, he was again zealously opposed, but was elected. While in Congress, he supported most of the measures of the Administration—but, on great principles affecting the organization of the higher Departments, he was known to entertain opinions deemed unfavorable to stable government. He left that body without having acquired the entire confidence of its friends or of its enemies. His judgment was believed by neither party to be very clear, nor very firm.

To prevent the evils apprehended from a Commission of which he should be a member, it was contemplated to confer a new character on Pinckney, and to associate with him a Secretary of superior ability. This idea was relinquished. The Cabinet, with some difficulty, prevailed on the President to substitute Dana for Gerry; and on the thirty-first of May, General Pinckney—Dana, Chief Justice of Massachusetts, and John Marshall, of Virginia, were nominated envoys extraordinary. Thus, the three great divisions of the Union were to be represented. The Senate confirmed this nomination.

By this appointment the hopes of the opposition were completely baffled. They saw in the selection of *three* Federalists conclusive evidence of the influence of party feeling over the moderate counsels of Hamilton; and comparing the President's private professions with his

* Life of Gerry, ii. 89.

acts, they publicly charged him with dissimulation. Jefferson went so far as to claim, that two of the Commissioners should have been "of persons strongly and earnestly attached to the alliance with France." * Great was his disappointment at the support given by Congress to the President.

"The folly," he asserted, "of the convocation of Congress at so inconvenient a season, and an expense of sixty thousand dollars, is now palpable to everybody; or rather it is palpable, that war was the object. Since that being out of the question, it is evident there is nothing else."

Washington, though withdrawn from public affairs, could not behold passing events without emotion. He wrote at this time to the Secretary of the Treasury:

"The President has, in my opinion, placed matters on their true ground, in his last speech to Congress. The crisis calls for an unequivocal expression of the public mind, and the Speech will mediately or immediately bring this about. Things ought not, indeed cannot, remain longer in their present state; and it is time the people should be thoroughly acquainted with the political situation of this country, and the causes which have produced it, that they may either give active and effectual support to those to whom they have entrusted the administration of the government (if they approve of the principles on which they have acted), or sanction the conduct of their opposers, who have endeavored to bring about a change by embarrassing all its measures, not even short of foreign means. * * * Thus much for our own affairs, which, maugre the desolating scenes of Europe, might continue in the most happy, flourishing, and prosperous train, if harmony of the Union was not endangered by the disturbers of its internal peace."

Such was Washington's deliberate sentence on the opposition.

* Jefferson to Aaron Burr, June 17, 1797. Same to Madison, June 15, 1797.

An event now occurred which had an important influence. Dana declined the appointment in the Commission, and Adams, swayed by his regard to Gerry, and in part by the influence of the opposition, nominated him to fill the vacancy. Neither Adams nor Jefferson had forgotten Gerry's instrumentality in their appointments to foreign missions. Adams believed in him. Jefferson understood him; and, the day after his appointment, wrote, conjuring him to accept it.

"It is with infinite joy to me, that you were yesterday announced to the Senate, as envoy extraordinary, jointly with General Pinckney and Mr. Marshall, to the French Republic. It gave me certain assurances that there would be a preponderance in the mission, sincerely disposed to be at peace with the French government and nation. Peace is undoubtedly the first object of our nation. Interest and honor are also national considerations; but interest, duly weighed, is in favor of peace, even at the expense of spoliations past and *future;* and honor cannot now be an object. * * * Let me, my dear sir, conjure your acceptance, and that you will, by this act, seal the mission with the confidence of all parties. Your nomination has given a spring to hope, which was dead before." *

Gerry accepted.

The impression made by what was passing on Hamilton's mind, is seen in his letters.

"The public prints will inform you," he wrote, "of the course of public proceedings hitherto. You will perceive that the general plan is analogous to what was done in the case of Great Britain, though there are faults in the detail. Some people cannot learn that the only force which befits a government is in the *thought* and *action*, not in the *words*, and many reverse the golden rule. I fear we shall do ourselves no honor in the result, and we shall remain at the mercy of

* Jefferson to Madison: "Dana has declined the mission to France. Gerry is appointed in his room, being supported in the Senate by the republican vote. Six nays, of opposite description." Also, Jefferson to Gerry, June 21, 1797.

events, without those efficient preparations which are demanded by so precarious a situation; and which, *nat provoking war*, would put us in condition to meet it. All the consolation I can give is, that the public temper of this country mends daily, and that there is no final danger of our submitting tamely to the yoke of France." *

On the same day, he wrote to the Secretary of the Treasury. Having answered an inquiry as to the power of the Commissioners under the British treaty, he proceeds:

"I like very well the course of Executive conduct in regard to the controversy with France, and I like the Answer of the Senate in regard to the President's speech. But, I confess, I have not been well satisfied with the Answer reported in the House. It contains too many hard expressions; and hard words are very rarely useful in public proceedings. Mr. Jay and other friends here have been struck in the same manner with myself. We shall not regret to see the Answer softened down. *Real firmness* is good for every thing. *Strut* is good for nothing."

Looking to the necessity of reinforcing the revenue, he renewed his proposal of a tax on buildings—avoiding the necessity of valuations; and advising that the idea of a tax on land be deferred. He then gives his plan of *ways* and *means* for the present—a tax of a million of dollars on buildings; of half a million on stamps, including a small per centage on policies of insurance; and a per centage on collateral successions; a duty on hats; another on saddle horses; and a duty on salt to make up a total of two millions of dollars. He also advised "a remodification of the duties on licenses to sell spirituous liquors by multiplying discriminations."

He next proposed a loan for five millions to be paid absolutely within five years—allowing a high interest, say

* Hamilton's Works, vi. 252—to King.

of eight per cent., (having in view the state of the money market,) redeemable at pleasure, and receiving subscriptions as low as one hundred dollars. In case of pressure, Treasury bills at a like interest to be used. "If," he adds, "unfortunately war breaks out, then every practicable object of taxation should at once be seized hold of, so as to carry our revenue, in the first instance, to the extent of our ability. Nor is the field narrow. I give you my ideas full gallop and without management of expression. I hope you always understand me right, as they are intended in the spirit of friendly frankness." A detail of the House tax plan was subjoined. Two days after, he again wrote to him:

"The last of your letters announced to me no more than I feared. Nor do I believe any sufficient external impulse can be given to save us from *disgrace*. This, however, will be thought of." He then combats his objection to his plan of taxation, observing, "The truth is a solid one, that the sound state of the political economy depends, in a great degree, on a general repartition of taxes on taxable property, by some equal rule. But it is very important to relax in theory, so as to accomplish as much as may be practicable." He is seen to have early condemned the arbitrary mode of valuation by assessment, in the most pointed terms, as one which "the genius of liberty reprobates."*

To supersede it, he then proposed a system of "specific taxation." Time and observation confirmed his early opinions, and he now again recommended it, as far as the present exigencies appeared to demand additional resources. Happy will it be for this country, in many respects, when the public mind shall correct the prevailing injustice resulting from "discretionary taxation."

Having given the Executive the means of opening a new negotiation with France, the Senate proceeded with

*In 1782. Hamilton's Works i. 199.

vigor and despatch to effect the important objects for which Congress were convened—the protection of commerce—preparations against hostilities, should the negotiation fail—an increase of revenue.

The President had stated, that the greater part of the cruisers which had committed depredations had been built, and some of them partially equipped in the United States. This was an evil to be suppressed without delay. The Senate immediately passed a bill prohibiting citizens of the United States from privateering, either against nations in amity or against their fellow-citizens. With some modifications it passed the House.

The importance of preventing the exportation of arms and ammunition was indicated by the crisis. It was increased by information which had reached the Government. A bill passed the Senate prohibiting the exportation of them. It received the vote of the House, but not until after a strenuous opposition, for the reasons that it would injure the manufacture of those articles, and would be prejudicial to France.

Several other bills also passed the Senate, in pursuance of Hamilton's suggestions. That to augment the corps of Artillerists and Engineers was determined by a large majority. A bill for the protection of trade met with more opposition. It proposed to man and equip the frigates, and to purchase and fit nine twenty gun ships. A motion was made to strike out the clause for the purchase of these ships. It was followed by another, by which the national vessels were only to be employed within the harbors, and on the sea coast of the United States. Both motions were rejected. Laws to authorise the President to organize a provisional army of fifteen thousand men, to be called into service only in the event of war, and to lay and revoke embargoes, were defeated.

A bill to permit the arming of private merchant vessels, and to regulate them, was postponed to the next session. The votes of the Senators on some of these measures were influenced by information received during their deliberations of an armistice between France and Austria, and by the hope of a general peace.

The political complexion of the House of Representatives was not of a decided cast;—although the Administration had a majority, the advantage of partisan talent was with its opponents, most of the strong men of the Federalists having retired, or been elected to the Senate. Of their successors, too many were too much alive to popular sentiment, the tone of which, the long-continued and unresisted injuries of France had lowered.

As soon as the Address to the President was presented, Smith submitted to the House of Representatives a series of resolutions in which Hamilton's plan was embodied. The first proposed, that provision should be made for fortifying the ports and harbors. After an opposition by Giles and Mercer on the ground of expense, it passed. The second, that the frigates, "Constitution," "Constellation," and "United States," should be completed and manned, was much opposed in various ways. It was sought to refer it to a select committee. The want of funds was objected. It was proposed to complete, but not to man. After a debate, which showed the fixed purpose of the Democratic leaders to prevent, if possible, the employment of a Navy, the resolution passed.

The purchase of other frigates and of sloops of war embraced in the third resolution was more warmly resisted. The object of providing a Naval force was asked. It was avowed to be for the purpose of convoy. This, it was contended, would lead inevitably to war, and should be postponed until the issue of the negotiation was

ascertained. The right of employing convoys was questioned. The advocates of the measure insisted on the necessity of provisions for defence; and demanded why commerce should be left a prey during a protracted negotiation, when, having taken our vessels and drained us of our wealth,—France will tell us, "We must submit!!"

The next discussion arose upon a proposition contained in the fifth resolution—to provide by law for regulating the arming of merchant vessels for *defence*. This, it was urged, would be attended with extreme danger. It would confide to the discretion of individuals the question of peace or war. No precedent for such a step, it was alleged, could be found in the conduct of other neutral nations; no authority could be adduced in its favor from the law of nations. It was the duty of the government to prohibit it. It was a privilege, only to be granted where the danger from uncivilized nations rendered immediate resistance the only remedy, as was the case in the Mediterranean and in the East Indies. It was proposed to insert the "West" Indies as a region where the right of self-defence ought to be exerted. "The protection," it was said, "of this trade was a chief object for which they were convened. For the attainment of this great object, the opposition proposed nothing. All they did was to hold out alarms of war, though every one desired peace. If other neutral nations had not armed their merchantmen, they had fleets to convoy their trade. We have no fleet. The creation of a navy is opposed, and even wishes are expressed that the frigates now building were burned. If we resort to an embargo, our seamen would wander about the country, discontented and perishing for want—our produce would decay upon our wharves. Have we a right to sit still and see these

spoliations? Was it not our duty to protect our commerce—our merchants—our revenue? The effect of your opposition will be to increase the demands of France, by contrasting her means and our weakness. The power to arm can be granted under such restrictions as will prevent its abuse, and all justifiable cause of quarrel. This bill was not to confer a privilege, it was to modify a right. It is said, the merchants were opposed to it, why had they not met and avowed their opposition? Why had they armed? Why had the President directed them to suspend arming? Why had they suspended? Was it not from an expectation that the Government would protect them? As to the alarm of war, a country which acts justly towards others and shows a desire of peace, and at the same time a resolution to defend itself, will always be the most safe from injury and aggression."

It was replied, that this measure would give real offence to France. Would she not tell us when we offered to negotiate, 'You have armed your vessels for conflict—peace you do not mean.' "Indeed," a member declared, "he saw nothing in the French republic like a wish to injure the property of the citizens of the United States. She had cause for offence in the British treaty." "He was against this regulation," Gallatin observed, "not from fear of offending either power—but because it was calculated to draw us into hostility—because, if our vessels resisted search or capture, it would certainly lead to war. It would not only lead to war, but it was war." The resolution was lost by a majority of eight votes.

The two next resolutions proposed an increase of the existing military establishment, and to empower the President to raise a Provisional army, when the circumstances of the country should, in his opinion, render it necessary for the protection and defence of the United

States. No pay to be given until it was called into actual service. To prevent a debate upon this latter measure, and to avoid increased odium, a substitute was brought forward by the opposition to place eighty thousand of the militia in requisition, and to purchase arms in proportion to the white population. To this proposition the Federalists acceded, as part of a system of defence.

Influenced by this result, the consideration of the third resolution, authorizing the President, if he judged proper, to purchase frigates and sloops of war, was now resumed. It was denied, that any such discretion could be constitutionally confided to the President. The force was too small to give efficient protection. The expense of a larger force would be too great. Were the resolution so modified as to confine its employment *within* our harbors, it would be supported. The danger of depredation on our coast was diminished by the late prohibition of the exportation of arms. It was finally resolved to confine the purchase to galleys, for the defence of the sea-coast, and to act *within* the jurisdiction of the United States.

The defence of the ports and harbors was subsequently considered. The Secretary of War had reported that two hundred thousand dollars were requisite. Gallatin proposed to limit it to fifty thousand; and a provision was incorporated in the bill, by which the debtor States were to protect themselves by the application to this purpose of the moneys due by them to the Union!! After much debate a vote was given, appropriating about one-half the estimate of the War Department.

Thus far the opposition had either mutilated, or rendered nugatory, postponed, or defeated, every measure of protection which had been suggested. They were

soon after compelled to act definitively on the bills for this object which were received from the Senate. But, in the interval, an attempt was made, by urging a previous consideration of the ways and means, to alarm the Federalists.

Their opponents believed, that they would shrink from a resort to direct taxation. The reluctance which existed to a stamp act would, it was supposed, induce a total dereliction of the system of defence. But this supposition was erroneous. Sincere in their apprehensions of danger, and resolved in their purpose to avert it from the country, an act was immediately brought forward by them, to raise a revenue by the imposition of stamp duties; and another increasing the duty on salt. This was followed by a motion to authorize the establishment of a Naval yard, and the purchase of lands on which the live oak grew.

It was known, that the details of a Stamp act would give rise to much discussion; and it was desirable not again to encounter public suspicion by opposing the Senate bills. With this view a motion was made by Gallatin for an adjournment which would limit the Session to the duration of a week. This was rejected. An act was next proposed by the Federalists to provide for the more effectual collection of the internal revenue, as by a modification of the system, increased resources would be obtained, and a large recourse to new taxes be avoided. It was not considered.

The bill for an increase of the artillery and engineers was discussed. Its necessity was urged to preserve and defend the fortifications. The seaboard was defenceless. To the thirty forts on the coast, the present force, if distributed, would furnish only fourteen men each. In the interior, while the Spaniards were increasing their

strength, to withdraw the garrisons would be to encourage an Indian warfare. Was an increased expense of two hundred thousand dollars a sufficient ground to incur such a risk? When an increase of the Navy was asked, it was answered, "Let trade take care of itself, and let us attend to the internal defence of the country." When it is proposed to provide for that, the same persons tell us, "We are about to employ on this object what ought to be employed for the protection of commerce." The militia you pronounce the proper defence; but the Constitution limits the power to call them out to cases of insurrection or invasion. Thus our ports might be occupied by an enemy before this power could be exercised. The whole peace establishment would not exceed, thus augmented, four thousand men.*

Giles adverted to the expense of the war department from the commencement of the government; and, forgetting the victory of Wayne, and the quiet of the border, inquired what equivalent had been received for this vast expenditure? "Military establishments," he said, "were a sort of factitious strength. The militia were the the real strength of the nation." "As to the frontier, there was nothing new in our situation. More money and more troops was apt to be an increasing passion, always attending large delegations of power. To collect money to raise armies, and to raise armies to collect money, has been a wheel of fortune to them, and a wheel of rack to their subjects." By *such* arguments of the danger of a standing army, authority to raise ONE regiment was refused!

An act prohibiting American citizens from enlisting in foreign service was called up. Much debate arose on

* The whole corps of artillery numbered 1,000 men.

a clause providing the form in which a citizen may expatriate himself, which was expunged. Gallatin's opposition proceeded further. He had doubts whether the United States had a right to regulate this matter, or whether it should not be left to the States, as the Constitution spoke of the citizens of the States! A bill without the objectionable clauses was then introduced, but was lost by three votes.

A message had been received from the President giving reason to apprehend a controversy with Spain. This only confirmed the policy of the opposition. Another message was at this time transmitted containing a report of the depredations committed on the commerce of the country, a measure which Hamilton had long since urged. After this report was received, Giles moved, that a select committee be appointed to print *such* of the documents as would be useful to the House. The *whole* were ordered to be printed. He then called up the resolution to adjourn two days after. The House would have limited the Session to a week—but the Senate disagreed.

The following day, a bill from the Senate "for the protection of the trade of the United States" was considered. A clause authorizing the purchase of nine sloops of war was expunged, and revenue cutters were substituted. A motion was made by Giles to confine the use of the frigates *within* the jurisdiction of the United States. "If employed for any other purpose than the protection of the coast, it would," he feared, "hazard the peace of the country without any good." He objected entirely to their acting as convoys; and a motion was made that they should not be so employed. This amendment Giles defended on the ground, that if the object for which they were to be employed was defined, it would be a sufficient answer to France who had a right to inquire of our Com-

missioners for what we were arming. The restrictive clause was inserted! A question arose on the duration of the act. After much debate it was limited to one year. On the final vote, a strenuous effort was made to induce its rejection. In this opposition Gallatin was foremost. He took a view of the resources and expenditure of the country. A small Navy he contended would have no weight. A large one he insisted was beyond their means. As to manning the frigates, his only objection would be the expense. He avowed his determination to vote against the bill. Nicholas pronounced the whole cost of the frigates an useless expense. He did not believe they could be of any advantage, but he would vote for it, because he saw the sentiment of the public and of the House was strongly in its favor. Nothing short, he believed, of actual experience would convince the supporters of this measure, that it was useless, expensive, and injurious. He would vote for it, hoping after one year's experience of the *plaything*, and finding that money was of greater value than the frigates, all parties would concur in relinquishing it.

Giles trusted that the United States would never become a maritime power. It would be her greatest misfortune. "A navy was inimical to the liberties of the country, and could not be supported without resort to a press gang. Naval power could never subsist in any nation without despotism." The bill passed by a large majority, and was carried to the Senate. That body disagreed to the clause prohibiting the frigates from being employed as convoys, and, after the discussion of a motion by Gallatin to postpone the bill to the next session, the House receded from this extraordinary limitation.

Thus by firmness against the persevering opposition of their adversaries, the Federalists at last succeeded in

laying the foundation of a Navy. The title of the bill was changed from a law for the protection of trade to that of "An Act providing for a Naval Armament."

In pursuance of the policy which had been previously adopted of excluding the Secretary of the Treasury from proposing objects of revenue, a committee of the House had reported a Stamp act. Two of its clauses were earnestly contested—one imposed a duty on certificates of naturalization. This became a theme of much clamor. It was denounced as oppressive on the poor emigrant, and stigmatized as a sale of liberty, an attempt to tax the right of suffrage. The clause was retained. To the proposed tax on notes and bonds, a proviso was annexed exempting bank notes. This it was proposed to erase as being a partial distinction, and a prolonged debate ensued, not marked with any party character. By some it was apprehended, that this duty might affect the currency—others contended that bank stock was a species of property which yielded large profits, and ought not to be exempt. The exempting clause was expunged by an almost unanimous vote. By a subsequent provision, the banks were permitted to commute the Stamp tax by the payment of one per cent. on their dividends.

When a stamp act was before a former Congress, a proposal to tax the public debt had produced the defeat of the bill, it being regarded by the Federalists as a violation of great principles of public justice and expediency. Gallatin now moved for a Stamp tax on every certificate of public debt. The motion was rejected, and the Stamp act passed by a majority of five votes. After an effort to postpone it, a bill was also passed, raising, by a small increase, the duty upon imported salt, Gallatin earnestly opposing this increase, as oppressive and unequal. Duties were also proposed on licenses for selling by retail wines

and foreign distilled spirituous liquors—but were not laid.

To enable the Government to anticipate the product of these revenues, a loan of eight hundred thousand dollars was authorized, with a limitation of the interest to six per cent.

CHAPTER CXXXVIII.

A MONTH prior to the adjournment of Congress, the President communicated to them a report from the Secretary of State on the proceedings of the Commissioner appointed to run the boundary between the United States and the Spanish dominions.

Ellicot, who had been detained by the lowness of the Ohio, reached the vicinity of Natchez, the place selected for the meeting of the commission, in the preceding month of February. He was attended by a military escort for his protection. On learning his approach, he was requested to station this force three days' journey from that post. He complied, and, having encamped a short distance from a Spanish fort, raised the flag of his country. He was requested, but declined, to lower this flag; and proceeded with his astronomical observations to determine the latitude of his station, which was found to be within the limits of the United States. While thus engaged, he was surrounded by Indians, who traversed his camp with drawn knives. The danger of his situation induced him to order the troops to advance, repeated but vain efforts being in the meantime made to persuade him to move within the territory of Spain.

Immediately after his arrival, and as though preparatory to the fulfilment of the treaty, part of the Spanish

artillery was removed from their fort with every indication of its intended evacuation. Soon after, the cannon were carried back, and remounted. This procedure gave great umbrage to the inhabitants, anxious to renounce the jurisdiction of Spain. The motives of it were asked. Assurances were given of an early compliance with the treaty —at the same time a letter was addressed by the Spanish Governor to the commander of the escort, requesting him not to advance further. Proclamations were soon after issued, avowedly to quiet the inhabitants, but which excited their suspicions. Alarmed at their discontent, and apprehensive of an insurrection, assurances were renewed of orders having been received immediately to evacuate the forts. The suspicions of the borderers continued, and Ellicot demanded of the Governor an explicit avowal of his purpose.

A declaration was then given, on the thirtieth of March, that positive orders had been received to suspend the evacuation of the posts, until the governments should determine which of the works were to be demolished; and until, by an additional article to the treaty, the real property of the inhabitants should be secured. Thus the performance of this treaty was indefinitely postponed. Information was at the same time had, that reinforcements were moving from New Orleans to Natchez.

To prevent delay in the survey, instructions were forthwith sent from Philadelphia to permit the forts either to remain or to be demolished; and a pledge was given, that the occupants of the lands should be protected in their possessions. Congress were also urged to frame a government for the protection of the people, and the Spanish minister was called upon to explain the causes of this unexpected procedure. He gave an evasive answer.

The reinforcement of the posts and authentic informa-

tion that powerful tribes of Indians had been tampered with by Spanish agents, to prevent the running of the line, determined Ellicot to demand a definitive answer as to the time when the limits were to be ascertained. At this moment a Proclamation was issued by Carandolet, the Governor of Louisiana, stating, as the cause of the delay, an apprehended expedition by the British from Canada; and a belief, that the advance of the American troops was with a hostile design of surprise; requiring the United States to leave the posts in the possession of Spain; or to secure her against an article of the treaty with Great Britain, which exposed them to be pillaged. An additional reason was assigned for the delay, "the expectation of an immediate rupture between France, (the intimate ally of Spain,) and the United States!"

This Proclamation increased the excitement of the inhabitants, which was heightened by the imprisonment of one of them. They embodied themselves, and resolved to expel the Spanish garrison. After much persuasion the tumult was quieted. But the neglect to organize a government affrighted the people.—Dissensions arose—intrigues ensued—the influence of the United States diminished.

Little doubt existed that Spain, then wholly under the influence of France, either to protect her possessions permanently, or with a view to a cession to that nation, had resolved to defeat the execution of the treaty. This belief was strengthened by the arrival at the Havana of a large military force, by the number of French agents who were conferring with the Indians, by the secret expedition of Collot, who, under the pretext of curiosity, was recently known to have explored Tennessee; and by annunciations in the French gazettes at New Orleans, that France was about to become the mistress of Louis-

iana and of the Floridas. But Spain had not yet resolved to cede these provinces, her present purpose was to sever its Western territory from the Union, and to establish over it a government under her immediate influence.

In the year seventeen hundred and ninety-four, a Spanish agent had been dispatched by the Governor of Louisiana to watch Genet's expedition under Clark and La Chaise. The same agent was employed on a mission late in the following year, having a different object. He was directed to ascertain the various channels through which the Western country could be approached. A plan was proposed by which the mouth of the Ohio should be formidably fortified. A bank was to be established in Kentucky to interest its leading characters, and Spanish funds were to be introduced there. Clark and his adherents, who were stated to be in the pay of the French Republic, were to be brought into the service of Spain, and military magazines to be established at New Madrid. To promote this plan, an interview was had between certain American citizens and the Spanish Governor, who awaited them at that post.

Another journey was made by the same agent in the year ninety-six. In the succeeding Spring, he was again sent forward, instructed to urge delay in taking possession of the posts, and "to prepare the minds of the people for a separation from the Union." The success of this project was founded on the ambition and interests of individuals, and "the excessive Gallicism of the people."

This mission proved wholly unsuccessful. The position of Spain had changed, and with it had changed the course of the Democratic leaders. By the treaty of ninety-five, she had not only ceased to be in hostility with France, but had entered into a society of war:—a breach with Spain became at once a rupture with France. This

was the event, of all others, the leaders of the Democratic party sought to avoid.

Thus, the policy of France determined at this time the condition of the Western territory. She preferred the King of Spain should hold his possessions until the attainment of her European objects would enable her to accomplish the extensive plans she meditated on the American Continent.

It was known at Philadelphia, that, at the moment of concluding the treaty with Spain, the French counsels contemplated the acquisition of Louisiana and the Floridas. One of her partisan presses insisted, during the recent session of Congress, after the rejection of Pinckney was ascertained, that she would never conclude a peace with England until the principle was admitted that free ships make free goods; and until she obtained Louisiana and Canada; the former as controlling the mines of Mexico and Peru—the latter to restore to the nation "a people and a possession of which it had been despoiled by the misconduct of its Kings; and where, like the Romans, she might provide for thousands of her veterans."

One part of this prediction was fulfilled by the subsequent cession of Louisiana to France. The other preceded, but a short time, the explosion of a feeble attempt upon Canada. During the early part of ninety-six, an intrigue had been commenced by Adet. His objects were to produce a revolt in Canada by the interference of American citizens; and thereby, though the revolt should prove unsuccessful, to involve the United States in a war with Great Britain. The discontented Canadians were to be instigated to an insurrection. Arms were to be furnished by France; and, at the moment of their rising, they were to be aided by a party from the frontiers of the United States.

To divert the attention of the Colonial governments from Lower Canada, several Frenchmen were stated to have been plotting at Detroit, while Quebec was the real object of attack. The plan failed in all its parts.

Ira Allen, a native of Vermont, repaired to France, and there made a contract with the Minister of War, for the purchase of arms. The contract purported a small payment in advance—the residue in remote instalments. The object of the purchase was represented to be for the supply of the militia of Vermont, but there was nothing to authorize this representation. No authority had been derived from the State. No intimation of the intended purchase had been given to the officers of its government. In completion of the contract, twenty thousand stand of arms—twenty pieces of cannon—tents and other military equipments were shipped in the Spring of ninety-seven for the United States.* At the time that this contract was made in Paris, McLean, an American citizen, who had been promised a commission of "General" in the service of France, was sent by Adet to Canada. He made repeated visits, tampering with the Canadians, until his secrets were disclosed to the government, when he was seized, tried, and executed, for high treason.

His guilt was established by the concurring evidence of several witnesses, and by a paper found upon him signed by Adet. The plot was, to interest the priests, and having gained a party among the inhabitants, simultaneously to surprise Quebec and Montreal. Assurances were given by him that arms would be supplied by France through the United States, to be concealed in rafts, and to be transported by way of the St. Lawrence and Lake Champlain;—and that a co-operating force was

* In the "Olive Branch." The contract was found among her papers.

organized on the border. To inspire confidence, the credentials from Adet were shown; and it was stated "that the Spanish Minister at Philadelphia was also concerned in the project."

The failure of this plot was lamented in the leading Democratic paper, and the sympathies of the American people were directed to the culprit.*

It has been seen, that one of the reasons assigned by the Spanish officers for retaining the posts was an apprehended descent by the British from Canada. The ground of this charge was a negotiation which had been opened by Blount, formerly Governor, and then a Senator from Tennessee, with the British Ambassador.

An intimation of this design was given by De Yrugo, the Minister from Spain, to the Secretary of State. Colonel Pickering, knowing that no preparations were made in Canada for such an object, regarded it as a fable; but a subsequently intercepted letter of Blount, showing that he entertained projects dangerous to peace, alarmed the Government. Inquiries were made of the British Embassy, whether any such project existed, or had received its countenance. The British Minister admitted that overtures had been made to him, and that he had transmitted the proposals to his Court.

Blount was impeached, an investigation was had, and it appeared from a despatch of Lord Grenville,† that, when the design was communicated to the British government, it was rejected, as involving "the necessity of employing Indians," and "the criminality of originating within the United States any hostile expedition" with a nation with which they were at peace.

* Trial of McLean for High Treason, July 6, 1797, in the "Aurora."

† Despatch of April 8th, 1797, in Blount's Trial.

The Democratic party seized upon this disclosure, as a pretext for exciting the indignation of the people. The assurance that the project had not been listened to had no weight. They denounced the British Minister as a party to the plot, and insisted upon his dismissal by the Administration, if they meant to preserve even the appearances of honor and neutrality; and that they should receive no successor from that corrupting government, until satisfaction was obtained for this attempt to disturb the peace of the country.*

The detention of the Spanish posts was imputed to this cause. It was alleged, that the escape of Blount had been connived at. These assertions were countenanced by the principal Democratic members on the floor of the House of Representatives. They nevertheless opposed an immediate investigation, which was urged, and carried by the Federalists. A vote had also been taken in the Senate for the expulsion of Blount, the only dissenting voice was that of the leader of the opposition. That Blount was at the time on terms of intimacy with the Spanish Minister did not pass unnoticed. The allegation that the detention of the Spanish posts was to be ascribed to this plot is refuted by the facts; that Gayoso had remounted the forts at St. Louis, and had resolved to hold them, before any knowledge of it transpired.

The conduct of the Spanish Ambassador left no doubt as to the influences by which his nation was controlled. The entire devotion to the interests of France which the representatives of that power in Europe evinced, was openly manifested in America.

France, by the recall of Adet, had no acknowledged organ in the United States. But her views were fully

* "Aurora."

represented through the agency of Spanish diplomacy—an agency which, had it been conducted with discretion, would have been more efficient, because it might possibly have been masked.

Her vast American possessions were the predominating interest in the policy of Spain. The same considerations which rendered her averse to the war of the Revolution, and prompted her efforts at its close to circumscribe the limits of the United States, marked all her measures. Although her arguments were refuted, and every pretence was exposed by which she had deferred the settlement of the boundaries, she postponed the execution of the treaty until the adjustment of the American controversies with Great Britain left her no hope of a war arising with that power. She then withdrew from the coalition against France, and alleged as a principal justification of the war which she declared against Great Britain, the treaty of Jay.

In the enumeration of his injuries, the King of Spain stated, "this same bad faith, the English Minister has suffered clearly to appear, by his silence upon the subject of all his negotiations with other powers, particularly in the treaty concluded on the nineteenth of November seventeen hundred ninety-four, with the United States of America, without any regard to my rights, which were well known to him." As this treaty had not, in any particular, infringed the rights of Spain, the only solution of this charge must be the disappointment of her hopes of the concert of England in the promotion of her views upon the Western territory. Thus disappointed, she at last concluded the treaty with Pinckney which the buoyant fortunes of France now encouraged her to violate.

Pursuing the same policy, though with a feeble hand, which the French Ambassador had followed, De Yrugo,

immediately after the accession of Adams to the Presidency, commenced a system of diplomatic annoyance. Although eighteen months had elapsed since the conclusion of the treaty with the United States, and profound silence had been observed, he now addressed an offensive despatch, complaining, that the pact with Great Britain was a violation of that treaty; and that England had "*surprised* the good faith of the Federal government;" that the article "that free ships made free goods" had been annulled—that while with England they had agreed that Naval Stores should be contraband they had stipulated with Spain that these articles should be free, and had ceded and confirmed to Great Britain the right of navigating the Mississippi; a right which he alleged the United States acquired only in virtue of their treaty with Spain.

The manifest fallacy of the reasoning on which these complaints were founded was clearly shown by a simple statement of the intentions of the treaty as to the two first objections, and by reference to its express language as to the last. So complete was the reply, that the silence of De Yrugo seemed to admit all its conclusions. But, after an interval of two months, the correspondence was resumed by him.

A report to Congress, by the Secretary of State, of the obstacles interposed to the demarcation of the Western limits became the occasion of another remonstrance. The Government was reproached with having disregarded his intimations of the designs of England to occupy the Spanish territories; with having neglected to move the army so as to protect the American territory from violation by the advance of the British troops; and by a gross intimation that it had colluded with England. That Spain retained the posts on unfounded pretences was de-

nied. The extraordinary position was assumed, that notwithstanding his stipulation in the treaty to withdraw his garrisons, "it was not to be presumed that it could ever have been the intention of his Catholic Majesty to deliver up fortifications, which, besides that they have cost him considerable sums of money, may, by the effect of political vicissitudes, be one day prejudicial to his subjects."

The answer of Pickering exposed at large the untruth of the assertions, the disingenuousness of the statements, and the absurdity of the pretences which marked the character of a document, that in less perilous times would have demanded the dismissal of its author.*

Following the example of Genet and Adet, De Yrugo made a direct appeal to the American people, by causing his accusatory letter to be printed. This preceded a public commentary on the correspondence from the pen of the Spanish minister, though under an assumed name. It sought to defend the pretensions of Spain by a misapplication of opinions of Jefferson; inculpated the Cabinet for submission to the wrongs of England; imputed to it a departure from honesty and gratitude; and urged, that it was necessary "to attack the *Administration* in order to support the *Government*." He had, indeed, the effrontery to propose that the difference with Spain should be adjusted at PARIS.

The correspondence was suspended until the opening of Congress. De Yrugo, on the twenty-first of November, addressed another letter to the Government. In this document, after regretting the refusal of the United States to authorize the American Commissioners to open a negotiation with Spain *at Paris*, he recapitulated his former complaints—the interference of the treaty with England

* Foreign Relations, ii. 28. American State Papers.

with that subsequently formed with Spain as to free ships making free goods, and the provision securing to English subjects the navigation of the Mississippi. It closed with an explicit demand, whether the United States contemplated the performance of the treaty in that particular.

The most important feature, beside that which proposed the transfer of the negotiation to Paris, was the declaration it contained, "that his Majesty had not observed in the answer (of Pickering to his previous letter) any reason to induce him to change his opinion concerning the injuries resulting to his subjects from the stipulations of the English treaty compared with those of the treaty with Spain. Thus, all the acts of the Spanish agents in obstructing the passage of the Mississippi, and with holding the posts, were sanctioned by the Court of Spain. The date of this letter shows the additional fact, that the order under which this demand was preferred, was given after the Revolution of France, on the fourth of September seventeen hundred ninety-seven.

While such efforts were made to impair the confidence of the people in the Administration, Jefferson was ever busy, stimulating his faithful, and cajoling his dubious adherents.

Congratulations on his elevation to the Vice Presidency offered the occasion for renewed correspondences. He had written to the South—he next addressed himself to the East. In all his letters are seen his hostility to Washington, and it is a marked fact, that the persons addressed by him were, several of them, those who had been conspicuous in that hostility during the war of the Revolution, with others Washington's known personal enemies.*

"The public dispositions," he wrote, "do not evince

* Rush, Samuel Adams, Gen'l Gates, Aaron Burr, Edmund Randolph.

that the great mass of the people are not republican; all of them, when traced to their true source, have only been evidences of the preponderant popularity of a particular great character. That influence once withdrawn, and our countrymen left to the operation of their own unbiassed good sense, I have no doubt we shall see a pretty rapid return of general harmony, and our citizens moving in phalanx in the paths of regular liberty, order and a sacrosanct adherence to the Constitution. This I think it will be, if war with France can be avoided."

A recent election in the city of New York opened hopes in that quarter. He wrote to Gates, the long forgotten hero of the Cabal, depicting the Federalists as "a faction composed of English subjects residing among us, or, such as are English in all their relations and sentiments."

Burr, defeated as a candidate for re-election to the Senate, had been recently delegated to the Assembly of New York. Masking his jealousy of him, Jefferson opened a correspondence with him. "Perhaps," he wrote, "some general view of our situation and prospects since you left us, may not be unacceptable. At any rate, it will give me an opportunity of recalling myself to your memory and of *evidencing my esteem for you.*" He then descanted on the dispositions of Congress, appealed to his intense hate of Washington, assured him of his own "great and sincere esteem." "War," he asserted, "was intended." "I had always hoped that the popularity of the late President being once withdrawn from active effect, the natural feelings of the people towards liberty would restore the equilibrium between the Executive and Legislative departments, which had been destroyed by the superior weight and effect of that popularity, and that their natural feelings of moral obligation would discoun-

tenance the *ungrateful predilection* of THE EXECUTIVE in favor of Great Britain. But, unfortunately, the preceding measures had already *alienated* the nation who were the object of them, had excited reaction from them, and this reaction has, on the minds of our citizens, an effect which supplies that of the Washington popularity."—"I have been much pleased to see a dawn of change in the spirit of your State." *

What must have been the perversion of mind that could regard the indignation of his countrymen at their accumulated wrongs as a breach of "moral obligation?" What the effrontery of so zealous a partisan of France, which could impute to Washington "an ungrateful predilection in favor of Great Britain?"

Abounding in glory, with no ambition to gratify, above all influence but his love of country; how deep-toned and impressive is the voice of the late President at this moment of peril.

"*It remains,*" he said, "to be seen, whether our country will stand upon *independent ground*, or be directed in its political concerns by any other nation. A little time will show who are its true friends, or what is synonymous, who are true Americans.—Those who are stimulating a foreign nation to unfriendly acts, repugnant to our rights and dignity, and advocating *all* its measures, or those whose only aim has been to maintain a strict neutrality, to keep the United States out of the vortex of European politics and to preserve them in peace.

"Our affairs might continue in the most happy, flourishing, and prosperous train, if the harmony of the Union were not endangered by the internal disturbers of its peace."

"The people should be thoroughly acquainted with the political situation of this country, and the causes which have produced it, that they may either give active and effectual support to those to whom they have intrusted the administration of the government, if they ap-

* Jefferson's Works, June, 17, 1797.

prove the principles on which they have acted; or sanction the conduct of their opponents, who have endeavored to bring about a change by embarrassing all its measures, not even short of *foreign means*." "It is hardly to be expected, that the Directory of France will acknowledge its errors, and tread back its steps immediately. This would announce at once that there has been precipitancy and injustice in the measures they have pursued, or that they were incapable of judging, and had been deceived by false representations.

"Pride would be opposed to all these, and I can hardly think the Directory will relinquish the hold it has upon those who more than probably *have suggested* and *promoted* the measures they have been pursuing."

Sentiments thus fatal to the reputation of the Democratic leaders were not ostentatiously promulgated—but were not concealed. Their efficacy was seen to penetrate Virginia; and it was feared they could not be parried. Artifice was resorted to. Hoping to draw out remarks which might promote their views, a letter, under an assumed name, was insidiously addressed to Washington. He replied to it as genuine, but in terms which could not be abused. The plot was subsequently detected and exposed. The writer was discovered to be a nephew of Jefferson.*

Hypocrisy often loses its cloak. Constant and warm as had been his professions of esteem to the late President, an incident, which he little apprehended, now cast

* This anonymous letter was signed John *Langhorne*, a *fictitious name*. It was dated Sept. 28th, 1797. The reply was of the 15th October.—See Washington's Writings, xi. 218; Appendix, 501. This letter is thus referred to in a memorandum in Monroe's hand: "The letter from P. Carr" (the instrument mentioned by Jefferson in a letter to Madison of 3d August, 1797) "under signature of John Langhorne to General Washington, praising him, &c. Colonel Nicholas's letter to General Washington (Washington's Writings xi. 220) informing him the author was *a nephew of Mr. Jefferson*, and that he suspected some unfair design was contemplated."

a blaze of light on the systematic calumnies Jefferson had poured out against that venerated person.

Mazzei, a Florentine, who had resided in his vicinity in Virginia and confided in him much, had returned to Florence. The success of France over his native Tuscany tempted him to seek importance, and to propitiate her favor. He communicated the much noted letter which Jefferson had addressed to him. It was published at Paris, in the Moniteur of the Directory, in order to sustain the opinions which had been inculcated on her rulers—to tarnish the character of Washington, and to justify the conduct of the French.

On its appearance,* this official Gazette remarked, that it was, "from one of the most virtuous and enlightened citizens of the United States, and *explains* the conduct of the Americans in regard to France—ungrateful children, instead of abandoning her, they ought to have armed in her defence. The treaty with Great Britain is an act of hostility to France. Her government had testified their resentment by breaking off communication with an *ungrateful* and *faithless* ally, until she shall return to a more just and benevolent conduct. Justice and sound policy equally approve this measure of the French Government. There is no doubt it will give rise to discussions which may afford a triumph to the party of *good* republicans—the *friends* of France. Some writers maintain that in the United States, the French have for *partisans* only certain demagogues who aim to overthrow the existing Government. But their impudent *falsehoods* convince no one, and prove only, what is too evident, that they use the liberty of the press to serve the enemies of France." This extraordinary letter of Jefferson was pub-

* January 28, 1797.

lished at Paris a few days after the rejection of Pinckney.

The influence of such sentiments from such a source on the policy of that nation was obvious. It was a Declaration from the chief of the Democratic party, whose election to the Presidency was confidently expected; and whose first act of propitiation would probably have been the recall of Pinckney, and the reinstatement of Monroe in triumph. It was a declaration, that the system of the American Government was "a system of ingratitude and injustice towards France, from whom they would alienate us to bring us again under British influence."* A declaration assumed as true, and proclaimed to the world by Barras, in his farewell to Monroe.

Its appearance in the United States caused extreme perplexity to the author, and to his partisans. The less initiated, untaught to dispute its meaning, proclaimed that it was a forgery, and asserted that Jefferson would disavow it. Day after day, in long succession, the Federal Gazettes called for its disavowal. No answer was given. No explanation offered. Continued silence confirmed the belief of its authenticity. Enlightened men were less indignant than grieved at this humiliation of their country. Angered amazement filled the mass of the friends of Government.

Are, they asked, the opinions of France, which before had been derived from adventurers, thus confirmed by the late Secretary of State—now the second officer of this republic? In vain have we so long endured with patience her repeated injuries. In vain has the Government assured her of our friendship, and our fidelity to our

* Yet in a letter to T. Lomax, he characterizes the conduct of France as "*atrocious proceedings.*"

engagements. The former head of the Foreign department, the officer most familiar with our external policy, has stamped these assurances with falsehood. If Jefferson thus wrote to an insignificant individual in Italy, what have been his communications to more elevated persons in the councils of France? To what may be ascribed her depredations—her injuries—her indignities? What was to be expected, if she believed this compendious calumny? "That the United States had become the victims of an Anglo-monarchical party, whose avowed object was to impose the substance, as they had already the forms of the British Government. That the Executive, the Judiciary, all the officers of the Government, the merchants, and the public creditors, were engaged in this nefarious design, and were only restrained from resorting to force by the strength of the republicans—the friends of France." Not only are her resentments justified; her hostilities are invited. They are directed against the merchants. These are the enemies of France. By striking at them, the revenues of the United States will be impaired; her fundholders punished; her commerce and her credit destroyed. Such a communication from such a source, they stigmatized as the vilest treason. In vain would posterity be asked to believe it ever had been made.

No event in his life had happened since his desertion of the government of Virginia, which caused Jefferson so great embarrassment. As to the course to be pursued his advisers differed. Monroe, who had recently arrived in the United States, wrote him, "I think you should acknowledge your letter to Mazzei. * * * One thing I suggest to you is, that by not denying you have all the odium of having written it, and yet without taking a bold attitude, which is necessary to encourage friends." Jef-

ferson wrote to Madison.* After assigning as a reason for his silence as to it in a recent interview with him, that "the variety of other topics *kept it out of sight*," and admitting "the general substance of it" was his, "though the diction had been considerably altered," he stated, "I could not disavow it wholly, because the greatest part was mine in substance, though not in form. I could not avow it, as it stood, because the form was not mine, and in one place, the substance very materially falsified." "This would render explanations necessary," which "would embroil me personally with every member of the Executive, with the Judiciary, and with others still. I soon decided in my own mind to be entirely silent. I consulted with several friends in Philadelphia, who, every one of them, were clearly against my avowing or disavowing, and some conjured me most earnestly to let nothing provoke me to it." It would "bring on" a personal difference with General Washington,† which nothing before the publication of this letter had ever done. It would embroil him also with all those with whom his character is *still* popular—that is to say, nine-tenths of the people of the United States; and what good would be attained by avowing the letter with the necessary ex-

* August 3, 1797. Jefferson's Works, iii. 362.

† Yet he wrote many years after, "General Washington, understanding *perfectly what* and *whom* I meant to designate, in both phrases, and *that they could not have any application or view to himself, could find in neither any cause of offence to himself;* and therefore neither needed, nor ever asked any explanation of them from me." The object of this latter statement of the year 1824 is to disprove an allegation by a connection of Washington, that he called Jefferson to an account for this letter; and that the diary relating to it was missing. Jefferson's Works, iv. 401. D. Stuart, a connection of Washington's family, and his intimate correspondent, states, that prior to the appearance of Jefferson's letter to Mazzei, "there *was* a *friendly* correspondence between him (Jefferson) and Washington. Since then, NONE."

planations? Very little indeed, in my opinion, to counterbalance a good deal of harm. Still, I am open to conviction. Think for me on the occasion and advise me what to do, and confer with Colonel Monroe on the subject. Let me entreat you again to come with him. There are other important things to consult on. One will be his affair."

Madison replied, as Jefferson would have desired, on the fifth of August: "Mr. Adams has followed the example of Washington with respect to Callender's charge [probably well founded *] of advising the extermination of the Tories. Colonel Monroe thinks that honest men would be encouraged by your owning and justifying the letter to Mazzei. I rather suspect it would be a justification and triumph to their opponents, and that out of the unfixed part of the community, more converts would be gained by the popularity of General Washington than by the kind of proof that must be relied on against it."

Though thus compelled by his fears and advised by his friends, to seek a disgraceful irresponsibility, this publication left no motive for Jefferson longer to attempt disguise in his public conduct. The much apprehended breach with France had paralyzed the nerve of the people, and quickened the fervor of her partisans in Congress. It was important, by an open demonstration, to propitiate her wrath—to exhibit the fidelity of her friends, and to forestall public opinion. The arrival of Monroe at Philadelphia offered the occasion.

After the rejection of Pinckney, having visited Holland, Monroe returned to France, enjoying the hospitality of a government he had so well pleased, until the

* The words within brackets, containing this most atrocious supposition as to Washington, are in cipher.

rigor of winter passed. A public dinner was given on his return to the recalled envoy, at which were present the Vice President, the Speaker of the House of Representatives, the Chief Justice of Pennsylvania, the leaders of the Democratic party, General Collot, the emissary of the Directory. There, with a premeditated purpose, with the flag of France floating over his head, Jefferson gave a toast to her success and her prosperity. In the Capital of the United States, during a session of Congress convened to provide defence against open hostilities, when there was no safety on the sea, and glaring savages were waiting in the Western wilds the signal for attack; after an American Envoy had been menaced with imprisonment and driven ignominiously from Paris to a land not permitted to be neutral, the second officer of this Republic is seen, amid loud applauses, pouring out libations to the prosperity of a nation then plundering her commerce—to the success of the enemy of his country.

A similar scene was enacted in New York. While Gates presided, Monroe gave the sentiment, "Perpetual union between the Republics of France and America."

Encouraged by these demonstrations of party attachment, Monroe addressed a letter to the Secretary of State, demanding an explanation of the circumstances which had induced his recall. It was not answered. The demand was renewed. It was not noticed. It was repeated—when Colonel Pickering replied, refusing to make the exercise of a discretionary power of the Executive the subject of a public discussion. Monroe insisted upon the injury he had suffered, and his "right to redress." "Why," he asked, "do you evade the inquiry? Is it because you know the imputation was unjust, and

wish to avoid the demonstration of it which you are unwilling to acknowledge? or, that you fear a discussion which may throw light upon a topic heretofore too little understood?"

The Secretary of State replied, repeating the reasons which forbade acceding to his request, "that the appointment of an Ambassador was a discretionary appointment; that mere want of confidence, from whatever cause it might arise, was a good reason for changing a diplomatic agent. If he is found on experience to be deficient in judgment, skill, or diligence; or if circumstances inspire a reasonable doubt of the sincerity of his views, he cannot with prudence be continued. A diplomatic agent, although his official communications have a fair appearance, may hold intimate and improper correspondence *

* Intercepted letter of Monroe to Logan:

"PARIS, June 24th, 1795.

"DEAR SIR: I give you within a short sketch of the actual state of things here, a copy of which I likewise send to one or two other friends, of whom Mr. Beckley is one.

"If you and Mr. Beckley, if in Philadelphia, deem it worthy the attention, I have no objection to your inserting it in Bache's paper, the first paragraph excepted; and if you likewise approve, I will hereafter keep you regularly apprised of the course of events, whereby the community at large may be more correctly informed of the progress of the Revolution, than they heretofore have been or can be, from the English prints. The character will be 'from a youth in Paris to his friend in Philadelphia,' occasionally varied as from some other quarter, as Bordeaux, that it may not appear to be a regular thing; though in that respect act as you please; for as truths only will be communicated, and with temperance, it is immaterial what the conjecture is, provided it be only conjecture. You promised me a visit, cannot you yet make it, as we shall be very happy to see you and Mrs. Logan; and will certainly make your time as comfortable as possible. In your absence, Mr. Beckley can attend to the little object of my communications, for I wish you and him to act in concert whilst he is in that neighborhood; and, indeed, if you were both absent, you will arrange matters confidentially with Mr. B.

on political subjects with men known to be hostile to the government he represents, and whose actions lead to its subversion. He may, even from mistaken views of the interests of his own country, countenance and invite a conduct in another derogatory from its dignity, and injurious to those interests." He declared, that to grant the request would involve the sacrifice of a great national principle.

The following day,* Colonel Pickering again wrote—that while he could not give an official explanation of the motives which had influenced the late President, he was ready, as an individual citizen, to give the reasons for his having advised his being recalled, and that his colleagues would do it in the like form. Monroe's answer † stated, that the object of his request was not to derive information for himself, that he expected an evasive answer. He denounced the principle of the refusal, "as supposing every public officer (the Judges excepted) to be a menial servant of the President—a pernicious doctrine meriting the attention of the people." He retorted upon the Secretary of State, that the policy of the government menaced a war "with our ancient and deserving ally—become a republic after our example, on the side of the remnants of that same coalition which was lately armed against the liberties of the world." He refused to receive a reply from him in any other than his official character,

himself, who likewise possesses mine. I beg you to present my respects to Drs. Rittenhouse and Rush, and that you will believe me sincerely

"Your friend and servant,

"JAS. MONROE."

This letter was republished from the Virginia Gazette in the Gazette of the United States on the 12th of January, 1798. It was addressed to Dr. Logan.

* July 25. † July 31.

stating, that his recall was an act of the administration, for which he held the administration responsible!

The recall of Monroe being ascribed in part to Hamilton's influence, he shared largely in the resentments to which it gave rise, now shown in a marked occurrence. Some time in the year seventeen hundred and ninety-two, two men were prosecuted by the Treasury Department for frauds upon the Government through the agency of a clerk in the office of Register. They were *guilty* of *subornation of perjury*, to obtain letters of administration on the estate of a person then *alive*, in order to collect a small balance due to him by the United States. One of these criminals, who had been in the service of Mughlenberg, the Speaker of the House of Representatives, solicited his interposition to get them released from the prosecution. The Speaker, in company with Burr, waited upon Hamilton for this purpose. Pending this matter, one of these criminals intimated to the Speaker, that his accomplice had it in his power to injure the Secretary of the Treasury, and that he knew several improper transactions of his. After frequent repetitions of these intimations, the Speaker felt it his duty to communicate them to Venable and Monroe, also members of Congress, to whom similar intimations had been conveyed. The three, the next day, proceeded to the jail, and listened to the imprisoned culprit's charge, that he had a person high in office in his power, and that he expected to be released by the Comptroller, through Hamilton's influence. His threats being reported to Wolcott, he communicated them to Hamilton, who "advised him to take no step towards his liberation while such a report existed, and remained unexplained." Nor did he stop here. On being apprised by a merchant that he was requested to become bail for the imprisoned party, Hamilton not only declined inter-

posing in his behalf, but informed the merchant, they had been guilty of a crime, and advised him to have nothing to do with them. Baffled in their hope of stopping the prosecution, the former clerk of the Speaker confessed, that he and his accomplice were possessed of lists of the names and sums due to certain creditors of the United States, which lists had been obtained surreptitiously from the Treasury. For some time, these men refused to deliver up these lists; but at length, on receiving a promise from the Comptroller of his influence to obtain their liberation, they consented to surrender the lists, to restore the money which had been fraudulently obtained, and to reveal the name of the person by whom the lists had been furnished. This being done, the Attorney-General of Pennsylvania, on being apprised by the Comptroller that an important discovery had been made, and of the condition by which it could be rendered useful in preventing future frauds, the prosecutions were dismissed, and the dishonest Registry clerk turned out. This clerk was the Fraunces, who, in revenge for his dismission from the Treasury, and encouraged by some of the political opponents of Hamilton, made a false accusation to Congress against him, which, it has been seen, they unhesitatingly spurned, unanimously exculpating him and approving his conduct.*

Influenced by the representations of these criminals, the three members of Congress waited upon Hamilton at his office, informed him of the charge, and that they had become possessed of some papers of a suspicious complexion, that they had contemplated bringing the matter before the President, declaring at the same time, that their agency was influenced solely by a sense of public

* Feb. 19, 1794. Infra, v. 330, 424.

duty and by no motive of personal ill will. At a subsequent interview, on the evening of the same day, in the presence of the Comptroller, Wolcott, an explanation was made by Hamilton of the papers shown to him, on which the two criminals had founded their accusation. These papers were shown demonstrably to have no reference whatever to any official matter or duty, but to a personal correspondence and intercourse with a female connected in marriage or ambiguously related to one or both of the two criminals, into which Hamilton had been drawn by the advances of the female herself; the perversion of which papers had been made to gain protection from punishment of their crime through Hamilton's political adversaries. Feeling that they had been made use of for this purpose, the result was, a full and unequivocal acknowledgment on the part "of all the three members of Congress of perfect satisfaction with the explanation, and expressions of regret at the trouble and embarrassment they had occasioned to him. *Mughlenberg* and Venable, *in particular, manifested a degree of sensibility* on the occasion—*Monroe* was more cold, but entirely explicit." Immediately after this interview, Hamilton asked in writing and obtained copies of these papers; and, at his request, the originals were detained from the fraudulent miscreants to prevent a repetition "of the abominable attempt of which they had been the instruments." Monroe's reply assured him, "every thing you desire shall be most strictly complied with."

Time passed on. After two inquiries by Congress, subsequent to this affair, into Hamilton's official conduct, and a full unanimous acknowledgment of his perfect integrity, and an opportunity offered by him of a third inquiry, more than two years elapsing since the foulness of this conspiracy against him was shown, he retired from

office, was extensively engaged in his profession, retaining, as seen, his most intimate confidential relations with Washington.

His influence on the public counsels was well known and felt by the opposition, and it was at this period determined to strike a blow, which he either would not repel, or, if repelled, must be by a public disclosure that would wound his sensibility. The original papers which had been sacredly confided to Monroe, and for the safe keeping whereof to prevent a similar abuse of them, it is seen he had given to Hamilton a solemn pledge, were passed into the hands of one Callender, an infamous hireling, who, it will hereafter appear, was pensioned by Jefferson to vilify Washington. This person, a short time after Monroe's return to the United States, gave them publicity, as evidence of peculation by Hamilton—the foul charge, the utter untruth whereof, Mughlenberg, Venable and Monroe had explicitly and fully admitted. Immediately on seeing this publication, Hamilton addressed a letter to each of these three members of Congress, demanding a declaration equivalent to that which they had previously made, of their perfect satisfaction with his explanation of them. It was given, accompanied with an assurance, that the publication had been made without their agency or knowledge; but Hamilton having perceived, as he thought, some evidence that the declaration was not candid on the part of Monroe, a personal correspondence ensued with him, showing Hamilton's indignation at the transaction.

Monroe alleged, in solution of this breach of faith, that he had deposited these papers on his departure for France, "*in the hands of a respectable character in Virginia,*" for safe keeping, where they still were. From that "*respectable character*" they must have gone to this Callender

Who the channel was by which this gross calumny passed to Callender cannot be doubted. Jefferson alludes to this matter in his unpublished writings,* and it appears from his own friendly letters to the dismissed clerk, Fraunces, published by Hamilton, that he was applied to by him for pecuniary aid and for a certificate of character, that were declined in terms, which, when the previous course of Congress in reference to this clerk is adverted to, must be deemed not a little remarkable, the more so, as these letters were written to him by Jefferson a short time before the publication of Callender appeared.

Resolved to expose what he pronounced "the most vile of the vile attempts" to injure him, and immeasurably jealous of the unsullied purity of his official character, Hamilton forthwith published the papers which he had submitted to the three members of Congress, and the correspondence with Monroe. The effect of this manly procedure was to silence the foul calumny on his official purity, to elevate him the more with those who regarded his probity as a part of this nation's honor, and to fix lasting opprobrium upon the craven baseness to which party and personal malignity had stooped. Nor was retribution long withheld. It was dealt, as will appear, by the hand of the very instrument employed to publish this flagitious defamation.

As soon as Hamilton's comment on this nefarious attack came to Washington's knowledge, recalling previous intimations darkly given to him to Hamilton's prejudice, he wrote to him on the twenty-first of August this significant note:—"My dear Sir: Not for any intrinsic value the thing possesses, but as a token of my sincere

* The affair known to J. M. (James Madison,) E. R. (Edmund Randolph,) Beckley and Webb."

regard and friendship for you, and as a remembrance of me, I pray you to accept a wine-cooler for four bottles, which Colonel Biddle is directed to forward from Philadelphia, (where with other articles it was left,) together with this letter, to your address. It is one of four which I imported in the early part of my late administration of the government; two only of which were ever used.

"I pray you to present my best wishes, in which Mrs. Washington joins me, to Mrs. Hamilton and the family; and that you would be persuaded, that, with every sentiment of the highest regard, I remain, your sincere friend and affectionate humble servant."

The enemies of Hamilton were the enemies of Washington. The same motives which had prompted this attack on the one, suggested an attack upon the other. Both were in their way.

Deeply as they felt themselves committed to France, the Democratic leaders saw that some explanation of the recall of Monroe was demanded by public opinion. The attempt of Edmund Randolph to relieve himself from disgrace by imputations upon Washington, had so signally failed, that instead of a precedent, it ought to have been a warning. Passion prevailed over policy, and an attack upon Washington, some time in contemplation, it was thought must be ventured; but what form it should assume, and what ground should be taken, was of difficult decision.

Monroe repaired to the residence * of Jefferson in Virginia, and here commenced his labored "vindication."

* Jefferson to John F. Mercer, Sept. 5, 1797. "We have now *with us* our friend Monroe. He is engaged in stating his conduct for the information of the public; as yet, however, he has done little."

Jefferson took great interest in this production, advised as to the title of the work, offered him suggestions as to parts, and intimated the policy of "keeping out *direct* censures of the President."* It was entitled "A View of the conduct of the Executive," the title of the previous attack upon Hamilton by Gallatin, at his instance. The character of this feeble production, may be judged by the previous narrative of his mission to France, the materials whereof it chiefly gives. It is sufficient to observe, that it divulges the *confidential correspondence* of the government with France, and this at a moment of imminent peril.

"As to the propriety," Washington remarked, "of exposing to public view the private instructions and correspondence of his own government, nothing need be said; for I should suppose that the measure must be reprobated by the well informed and intelligent of all nations, and not less by his abettors in this country, if they were not blinded by party views, and determined at all hazards to catch at any thing, that in their opinion will promote them. The mischievous and dangerous tendency of such a practice is too glaring to require a comment."

The dangers of foreign influence are seen to have weighed upon the mind of Washington during the latter years of his life. He felt it a duty to himself and to his country to leave behind him, for after times, recorded evidence of his convictions of the conduct of the recalled envoy. These strictures were, after his decease, made public.

"As to the recall of Monroe," he remarks, "if an agent of his appointment is found incompetent, remiss in his duty, or pursuing wrong courses, it becomes the indis-

* Jefferson to Monroe, Oct. 25, 1797.

pensable duty" of the President "to remove him from office; otherwise he would be responsible for the consequences. Such was Mr. Monroe in the estimation of the President upon trial of him." "None but a party man, lost to all sense of propriety, could have asked "a disclosure to him of the contents of the treaty with Great Britain previous to its ratification," and no other would have "brought himself into such a predicament."—"There is abundant evidence of his being *a mere tool* in the hands of the French government, *cajoled and led away* always by unmeaning assurances of friendship." * †

* Washington's Writings, vol. xi. Appendix, No. x.

† Monroe to Madison, Nov. 15, 1796. "Notwithstanding this unprecedented outrage," (his removal,) "I have still some tenderness towards General Washington."

‡ Jefferson to Monroe, Dec. 27, 1797. "Your book was later coming out than was wished, however, it works irresistibly; it would be very gratifying to you to hear the unqualified eulogies, both on the matter and manner, by all who are not hostile to it from principle. A pamphlet, written by *Fauchet* (now reprinting here) reinforces the views you have presented of the duplicity of the administration here."

Jefferson to Monroe, Feb. 7, 1798. "I understand, that the opposite party admit that there is *nothing* in your conduct which can be blamed, *except the divulging secrets*; and this, I think, might be answered by a few sentences, discussing the question, whether an ambassador is the representative of the country or of the President?"

Jefferson to Monroe, April 5, 1798. "Your narrative and letters, wherever they are read, produce irresistible conviction, and cannot be attacked, but by a contradiction of facts on which they do not venture."

CHAPTER CXXXIX.

The capture of Mantua consummated the fate of Italy and the fortunes of France.

Having levied a contribution on the Papal dominions, Bonaparte, with a boldness only sanctioned by his immense genius, leaving behind him his recent conquests, resolved to dictate at Vienna the terms of peace to the Germanic Empire.

While one division of his forces traversed the defiles of the Tyrol, he, at the head of the main body, penetrated, amidst clouds, and snows, and ice, the mountains which overlook at a distance the valley of the Danube.

There, from the last summit of the Noric Alps, his ardent soldiers, enriched with spoils, united with the hardy army of the Rhine, emulous of each other's fame, menaced the hereditary States of Austria. The patriotism of the mountain peasants, and the obstinate courage of the choicest troops of the Empire, offered a vain resistance to their impetuosity. Trieste was occupied, Carinthia overrun,—Vienna trembled at her approaching doom; and, after six years of desolating warfare, the Emperor rescued the fanes of his ancient capital from sacrilege, by the preliminary treaty of Leoben.

Having extended the dominions of France to the borders of the Rhine, and indemnified Austria for the loss of

her Belgic and Lombard possessions, by States despoiled from Venice, the conqueror hastened to the shores of the Adriatic to complete the overthrow of that ancient oligarchy, dating its origin from another invader, the ferocious Attila.*

Intestine dissensions, artfully fomented, had prepared Venice for her hapless fate. Superstition arrayed against Infidelity—Patriotism against Sedition waged an unequal conflict. Her haughty aristocracy sought safety in submission. Their prayers, their lamentings, their concessions were heard only to be scoffed. The policy of France would not endure any other institutions than such as she should impose; and, amidst the broils of her citizens with the foreign mercenaries of the Senate, a peace was signed, by which a provisional government was established; a protecting army of Frenchmen introduced—her fleet surrendered—the defenders of the State delivered to summary vengeance. This invasion and subversion of an ancient, unoffending, neutral power, was excused by the allegations, that her Lagunes were her only natural possessions; that her iniquitous Constitution, and aged, abhorred, and gloomy despotism gave her no right to sympathy or existence.

Without these poor pretexts, Genoa was doomed to a similar revolution. The adherents of France, miscalled the Patriots, rose against the people and were beaten down; but the timely advance of a French force ended the contest, while the Doge was considering a proposal to modify the constitution.

Amid the ruin of ancient and the creation of new States, Bonaparte sat on his throne at Milan, (thus again an imperial city,) deciding the destinies of Europe, while

* Gibbon, iii. 357.

the perspective of universal empire was opening before him.

Of the powerful coalition which had menaced France, England alone remained in arms. The condition of her allies left her no longer any obligation or inducement to protract the contest. Overtures of peace were made, and accepted; and, while Austria was negotiating at Undine, conferences between these ancient enemies were commenced at Lisle.

France, in all her interests, required repose, and fondly cherished the prospect of tranquillity. The wishes of the nation were responded to by the two Councils, sincerely desirous of peace, and intent upon confining the Directory within their legitimate sphere. But the Executive power of that great, unhappy nation, was the representative of war. Peace would be fatal to its existence. To exist, it must be absolute—unlimited. It could not admit of opposition.

The press had denounced the subversion of Venice. The Councils inquired how the Directory, without legislative concurrence, had dared this procedure? The inquiry was referred to the same Committee which were consulting of the depredations on the United States. The French people had begun again to reason, and the Directory took refuge in the arms of the soldiery. Troops were seen approaching Paris. Addresses from the army avowed their readiness to "fly with the rapidity of the eagle to maintain the Constitution!—defend liberty!—protect the republicans!" Another revolution was resolved.

At a concerted signal, the legislative halls were surrounded with soldiers. The Councils were dissolved, and the minority, composed of the adherents of a majority of the Directory, assembled at a different place, and as-

sumed to represent the nation. Carnot and Barthelimi, condemned to deportation, gave place to Merlin and Neufchateau. A new ministry was formed; and Talleyrand, recently proscribed, was charged with the foreign department. Throughout nearly two-thirds of France the elections were annulled. More than one hundred members were expelled the "Council of Five Hundred," and forty from the "Council of Elders." Not an individual had the benefit of a hearing or trial. Men of distinguished merit, the Constitutional representatives of a large majority of the nation, were banished, on the plea, that they were the agents of Royalty. To silence complaint, the popular journals were suppressed—their proprietors exiled.

This Revolution was not stained with blood, nor marked with tumult. Accustomed to despotism, Paris remained a calm spectator of this extraordinary usurpation. Her pleasures were not interrupted. A few scattered groups, uttering popular cries, alone showed the existence of any remaining national sentiment. Yet, as regarded the opinions of France, it was a more flagrant, open, undisguised violation of the public will, than either of those which it succeeded.

Such was the fate of a Constitution founded on the broadest theory of popular rights. An institution based upon the principle of universal suffrage, it was supposed, would secure to the people a pure and independent representation. The majority of the suffrages were given without regard to the public interests, or were corruptly purchased. Its Judiciary were elected by the people. Their decisions were prostituted to the malefactor and the pirate. Distrust had created a plural executive. There was no unity of counsels, and the minority were expelled by the majority. The Executive had no consti-

tutional negative on the legislature. To protect itself, it resorted to force. For a theoretically pure representative democracy, one night substituted a military despotism.

Yet this usurping government, with no other support than the bayonet, was defended by the Democratic press of the United States, as the assertor of liberty against the plots of the Royalists. The same press insisted, that with her power thus consolidated, her policy would be pacific; and that America had only to wait a short interval the adjustment of all their controversies. Hamilton saw a different result. He declared at this moment, that "Power alone could reorganize the discordant materials of Europe; that there could be no pacific accommodation of its disturbances; that France must seek repose under a throne; and that some Bonaparte or Pichegru, with half a million of veterans at his heels, would parcel out monarchies, principalities, and tributary States at pleasure." *

As to the United States, the majority of the former Directory were in favor of war. Their successors were not less hostile. The only question was, whether it should be open, or, as it had been, "war only on one side." "If France makes war," they said, "it will be on the Government, not on the people. The Government cannot succeed in raising armies, equipping a fleet, or laying taxes to pay them. Had Madison been appointed Envoy, it would have drawn closer the connection of seventeen hundred seventy-eight; as it is, she will not commit the error of England by advancing into the United States. The Directory can have, by *proper agents*, the preponderance there assigned to her."

* Thus is seen the force of Talleyrand's pithy remark as to Hamilton, "Mais il avoit *divine* l'Europe."

Intelligence of this Revolution reached America late in the Autumn. A few days after it was received, on the twenty-third of November, Congress assembled.

The President, in his speech, remarked, that nothing had occurred since their adjournment to render inexpedient the precautionary measures he had before recommended. That the reasons for their adoption were strengthened by increasing depredations, and, though the negotiation with France should issue favorably, that the disorders of the world indicated the necessity of protecting and defending their commerce. Spain, he observed, still occupied the territory of the United States, with her garrisons; and had not commenced to define the boundary; a delay to be regretted, as tending to influence the Indians prejudicially. He mentioned the attempts of foreign agents to excite them to a confederate hostility, and suggested the propriety of a law for the punishment of this interference. The proceedings to fulfil the treaty with Great Britain were adverted to, and Congress were advised to make provision for the awards they had engaged to pay. As to revenue, he urged the danger of *funding systems and loans;* and advised a resort to "immediate taxes." The importance of unanimity in the peculiar situation of the country was earnestly indicated.

The decisive language of the President greatly disappointed the hopes of the opposition. Their efforts to gain time had thus far failed, and the most anxious apprehensions were indulged, that the very qualities of his character, through which they had expected to rule him, would prove the most formidable obstacles to their purposes.

A short time after this Speech had reached Madison, he penned this contrast between Washington and Adams;

exalting Washington to undervalue Adams—undervaluing Washington, to excuse, perhaps exalt, himself.

In answer to Jefferson,* he observed:

"Since my last I have received yours. There never was perhaps a greater contrast between two characters than between those of the present President and of his predecessor. The one, cool, considerate, and cautious. The other, headlong, and kindled into a flame by every spark that lights on his passions. The one, ever scrutinizing into the public opinion, and ready to follow what he could not lead. The other, insulting it by the most adverse sentiments and pursuits. Washington, a hero in the field, yet overweighing every danger in the Cabinet. Adams, without a single pretension to the character of soldier, a perfect Quixote as a statesman. The former Chief Magistrate pursuing peace everywhere with sincerity, though mistaking the means. The latter taking as much pains to get into war as the former took to keep out of it. The contrast might be pursued into a variety of other particulars. The policy of one, in shunning connections with the arrangements of Europe—of the other, in holding out the United States as a make-weight in the balance of power;—the avowed exultation of Washington in the progress of liberty everywhere, and his eulogy on the revolution and people of France, posterior even to the bloody state of Robespierre—the open denunciations by Adams of the smallest disturbance of the ancient discipline, order and tranquillity of despotism."

The public feeling had been roused against France, and it was the policy of the opposition to avoid all irritation. The Addresses of both Houses passed without debate.

Either to discontinue that, which they regarded as an irksome ceremony, or to wound the Executive by withholding this accustomed mark of respect, many of the minority voted to omit the practice of presenting an answer, and that a committee be appointed merely to an-

* February, 1798. The passage quoted may be seen in the original letter in the State department. It is omitted in the copy, also there, intended for publication.

nounce to the President their readiness to co-operate with him in all advisable measures. Of these the most urgent were those for the protection of commerce, and the defence of the country. The committee on this subject, in order to avoid a protracted discussion, asked leave to report by bill. The House was equally divided. The motion was carried by the casting vote of the Speaker, who had abandoned the opposition. The bill authorized merchant vessels to be armed for their defence. This was opposed, as a measure hostile to France, and as interfering with the pending negotiation. "If the vessels acted offensively, it was war. If defensively, it might furnish a pretext for war." The danger of offence was denied by the Federalists. It was not to be anticipated, that a vessel engaged in peaceful traffic, not authorized to capture, would commence an attack for the mere desire of a contest. The Master would expose his person to a gibbet, and his vessel to condemnation. Is the right of defence to be restrained, lest it should give a pretext for hostilities? Is France in want of a pretext? Has she not defended her spoliations on the plea of imperious necessity—a plea to which she always can recur? Great as the urgency of this measure was, from the increasing captures, still, in the hope of a successful issue to the negotiation, the bill was postponed until that issue should be known. Much artifice had been used to induce the belief, that France was anxious for conciliation. A letter to that effect was received from Talleyrand by the French Consul at Philadelphia, at the opening of the session. A prospect was held out, that Commissioners would be sent from France. Their terms, it was suggested, by the opposition, would be indemnity for the captures made by her, on being indemnified for captures made by Great Britain in consequence of our abandonment of the modern

law of nations, which the Executive had proclaimed should be his guide;—compensation for not having fulfilled the guarantee of the West Indies; stipulations that the commerce of France should be on the same footing with that of England; and that the United States would never enter into any treaty, unless free ships made free goods.*

Their proceedings on another subject indicated the temper of the House. A bill had passed, from adequate motives, to postpone the levying of the stamp duties for a period of six months. In this the Senate concurred. Regardless of the obstacles which had been overcome in the grant of this important source of revenue, and notwithstanding its probable necessity, the fear of offending popular prejudices induced the House to repeal the Stamp act. The Senate, of firmer purpose, rejected the proposition.

The sentiments of the Representatives were more fully disclosed in a debate on a bill providing the means of foreign intercourse. An act for this purpose, of a limited duration, had passed the first Congress, and had been renewed at different times. This act fixed the amounts of compensation, and appropriated a sum to be disbursed annually by the President for that object; but to be accounted for at the Treasury. The Diplomatic establishment had been recently enlarged by the mission of the son of the President to Berlin. A corresponding appropriation was proposed. The motive to this embassy not being very obvious, and it being regarded as an unbecoming act of favoritism, much animadversion followed. The opponents of the President found in it an occasion to excite the jealousy of the people. It was not forgotten, that during the struggles of the revolution, a charge

* The "Aurora."

had been made by him which was rejected, for the education at this son at the public expense, while the father was enjoying the dignity and emoluments of an embassy, and, looking back at his career, it would be asked, does he thus hope to advance him step by step to the highest station in the Government? The apprehension of an hereditary monarchy would be bruited forth; and this preference adduced as evidence of the near danger of such a result.

The despatches of that officer, while resident at the Hague, exposing the policy of France, had also given great umbrage. A strenuous opposition was resolved. Nicholas began the discussion. He moved an amendment, by which the grade of a minister plenipotentiary would have been excluded, the established annual compensation of nine thousand dollars would have been confined to the Ambassadors to the "French Republic or Great Britain," and that of all other ministers limited to half that sum. This amendment was in accordance with the policy early suggested by Jefferson. A short time after he took his seat in the Cabinet, he proposed to the President to adopt it as his system, that "excepting the Court of France," there should be no "higher grades in the Diplomatic line than Chargé des Affaires." *

By seeming only to fix the grades and salaries, the Constitutional obstacle to this interference was sought to be kept out of view. In the course of this discussion, all the excited feelings of the parties were shown. The Democratic members enlarged much on the dangers of Executive patronage, and assimilated the office of the President to that of the King of England. His power was sustained by that patronage, which was the great

* Washington's Diary, March 23, 1790.

source of apprehension here. Thence corruption would flow in upon the State; and all history proved that Republican governments corrupted were worse than monarchies. Gallatin was conspicuous in support of this amendment. The necessity of diplomatic agents he more than questioned. "He believed, situated as we were, it was necessary to have some political intercourse; but he also believed it would be best by degrees to decline it altogether. The political relations of the country, he declared, were distinct from its commercial relations. These could be sufficiently attended to by Consuls. The present situation of the nation was not owing to its commercial intercourse, but to the operation of treaties and to its political connections. He contended, that the House had a right, by refusing an appropriation, to check this patronage. The raising and disbursing money, the Constitution had confided to Congress. It emphatically states, that all legislative powers shall be vested in Congress;—that no money shall be drawn from the treasury, but in consequence of appropriations by law. Therefore Congress are judges of the propriety or impropriety of making a grant, and have a right to exercise their discretion therein. If there was any act which could not be done but by all the branches, each had its share in deciding upon the propriety of it. He also entertained a doubt, whether, although the President may appoint Ambassadors, a law may not be necessary to create the office, before an appointment takes place. The section of the Constitution empowering the President to appoint Ministers, recognizes only the possible existence of them; and does not create the office. The office to any foreign Court, where we have not had any before, is created by the President's appointment."

The advocates of the bill treated these alleged dan-

gers from patronage as mere themes of popular declamation. Those who decried it, had admitted that nothing in the history of this country justified this alarm. What, it was asked, was meant by this attempt to distinguish our political from our commercial relations? Except the settlement of boundaries, had we any differences or interfering interests with other nations which were not commercial? Those interests were the only sources whence our political intercourse with them could flow. Ought those great, those general interests, the basis of treaties, and the chief objects of national intercourse, to be intrusted to Consuls? The member knew, that these could alone be confided to agents, having the character of Ministers; and yet he had asserted that our political and commercial relations were distinct. Was this a time to "leave our commerce to itself," and to relinquish our representative place among the nations? Should we recall our Ambassadors, would Europe follow this example? Would she not still plant among us her agents, and does not the danger to us proceed from her missionaries here, and not from our ministers there?

After a large discussion of the power of one branch of the Legislature over the Executive department, it was observed, this attempt thus to check the functions of the Executive may be the exertion of power, but is not the exercise of a constitutional right.—No—it is the sequence of a series of attempts, each of which has been directed to some present object, but had an ultimate purpose; the concentration of all the powers of the government in one of its branches. The resolution calling upon the President for the instructions to Jay was not to obtain information, for those instructions had been seen by the members who pressed that resolution. Its object was to establish a precedent for controlling the Executive. The re-

fusal to appropriate for the treaty with Great Britain was a similar attempt to usurp the treaty-making power. In the proposed amendments to the Address of the last session, the same end was sought, by prescribing to the Executive the principles of his instructions, and the terms upon which the negotiation should be conducted. The refusal to appropriate, by the same House which had enacted the law for completing the Navy, was an analogous procedure. An act repealing part of the law fixing the Military Establishment passed both Houses. It was returned by the President, with the reasons of his dissent; and failed, for want of a two-third vote. Yet an attempt was made to defeat the declared sense of the Legislature by the vote of a bare majority, to withhold the requisite appropriation.

The Constitution has given to the Executive, with the advice of the Senate, the appointment of Ambassadors. Can the necessity of our concurrence in an appropriation, give us, not only the right of prescribing to the President the grades of ministers, their numbers, the nations to which they shall be sent, but the power also, by withholding salaries, of defeating such appointments? When an appointment is constitutionally made—the compensation becomes a debt. For what is the money power intrusted to Congress, but "to pay the debts of the United States?" This power of appointing Legates is a necessary incident of sovereignty. The Constitution has only designated the Department by which it is to be exerted. It may well be asked, could the House, by refusing an appropriation, divest the nation of so important an attribute? The discussion was much protracted and often resumed; but the amendment was finally rejected by a majority of four, being a strict party vote. This increase of patronage became the subject of much after contro-

versy; and the speech of Gallatin was extensively circulated to prejudice the administration.

During the progress of this debate the Senate had been engaged in framing a system for the conduct of impeachments. The Constitution prescribed, that "the Senate shall have the sole power to try all impeachments." A clause was nevertheless proposed by Tazewell, for the introduction of trial by jury in these cases. "There is no expectation," Jefferson wrote to Madison, "of carrying this; but it will draw forth the principles of the parties, and concur in accumulating *proof*, on which side *all* the sound principles are to be found." This attempt to destroy so important a check on Executive influence, was only supported by three votes—Tazewell and Mason of Virginia, and Andrew Jackson of Tennessee.

Notice of a proposition to amend the Constitution, as to the election of the President, had been given in that body. With a similar disregard to the stability of the Government, and with a like view to popularity, Jefferson suggested it, as a proper occasion, to propose again the rejected "Virginia amendments."

A circular letter from Cabell, a member of Congress, had been presented by a Grand Jury of Richmond in terms of strong censure. Jefferson pronounced this an invasion of the natural right of free correspondence, and caused petitions to be addressed to the Legislature of Virginia, but to be "fathered" by some other person, impugning this procedure as an infraction of that right. At the same time, he described the Judiciary of the United States, as having a foreign jurisdiction; and proposed that a præmunire should be enacted by the Legislature of that State against all citizens, who "*attempt* to carry their causes before any other than the State Courts, in cases where those other Courts have no right to their

cognizance." "A plea," he wrote, "to the jurisdiction of the Courts of their State or a reclamation of a foreign jurisdiction, if adjudged valid, would be safe; but if adjudged invalid, would be followed by the punishment of a præmunire for the attempt." * Denunciatory resolutions, in conformity with these petitions, passed the House of Delegates; a proceeding which was condemned by the Senate of Virginia, as "derogatory to its constitutional privileges." The end was nevertheless attained of keeping up the jealousy of his State, and preparing it for subsequent movements.

These intermediate means of excitement were now chiefly resorted to for the purpose of diverting attention from the injuries of France. But in vain. Her continued depredations left the nation no repose. All were intent upon the result of the mission to Paris. The intelligence from Europe gave no indications of its success. The recent revolution had excluded from the French Councils all the advocates of peace, and the interests of the army were made the predominant interests of France. Previous to the change of the Directory, the conferences at Lisle had proceeded to a point which offered every prospect of success. England, reserving a few important acquisitions for the security of her commerce, had consented to relinquish the rest of her vast conquests. Instructions were now given by the Directory to its agents to refuse the grant of the small indemnities her crown required. She was asked to surrender all, without any equivalent. Hesitation to accede to such unequal terms was the pretext of an order to break off the delusive negotiation.

Efforts were also made to depart from the treaty of Leoben, and to impose more unequal terms upon Austria.

* Jefferson to Monroe, Sept. 7, 1797.

But Bonaparte triumphed over the Directory, and, on the seventeenth of October, the treaty of "Campio Formio" was concluded, which public opinion compelled the Directory to ratify. They immediately after issued a proclamation of their intention to invade England. A treaty had recently been concluded with Portugal. On the same day on which Bonaparte was appointed to the command of the army of England, this treaty was declared to be void, and the Portuguese Minister was ordered to depart from Paris!

The American commissioners arrived there on the fourth of October—a most unpropitious period. At the moment of their arrival, to prepare the public for the course it had been resolved to adopt, a summary exposition appeared in the official gazette of the "Differences between America and France." The treaty with England was the principal topic of complaint. Again adopting the language of Jefferson to Mazzei, "Two declared parties were stated to exist in the United States. One consisting of the merchants, and of a majority in the Government and legislature, which was called the English party. The cultivators of land were said to form the other party. The mass of the people were more inclined to France." The treaty of England, it stated, was concluded to serve her interests. That it was made without the knowledge of France, was charged as an offence. It was pronounced a breach of the alliance, and stigmatized as a "treaty of *disaffection!*"

The despatches from the American Commissioners were received at Philadelphia on the fourth of March—the day on which the debate on the foreign intercourse bill terminated. They confirmed the apprehensions which this exposition had raised.

Uncertain whether the Envoys had retired from

France, and delayed by the time necessary to decipher their communications, the President only transmitted their last dispatch, bearing date the eighth of January. It enclosed a message from the Directory, urging a law to declare as good prize all neutral ships having on board merchandises and commodities, the production of England, or of her possessions, so that the flag might no longer cover the property; and declaring, that, except in case of distress, the ports of France should be shut against all neutral ships which in the course of their voyage, shall have touched at an English port. It also stated, that no hope existed of their being officially received, or that the objects of their mission would be in any way accomplished.

Cotemporaneously with this message a circular was addressed to all the Diplomatic agents and consuls of France within the United States, announcing the intended descent upon England, and stimulating them to form an active and jealous league against her, for the professed object of establishing the "liberty of the seas."

The situation of this country called for immediate action, and a report was made to the House of Representatives, proposing the equipment of the frigates,—the purchase of armed vessels for the defence of the coast,—the establishment of foundries, the appointment of a Commissioner of Marine in the War department, and further appropriations for fortifications. Urgent as the motives to these measures were, Congress remained quiescent.*

* "What anarchical notions," Ames observed, "we find prevailing! What other Government find the elements of discord and dissolution so powerful within its very bosom! Everywhere, out of the United States, the Government, good or bad, has the power to act or forbear acting. Its difficulties, and the menaced resistance to its action lie without; here, they appear within. The machinery of our Government, as understood by Gallatin & Co., is made to stand still—not to go."

The leaders of the Democratic party triumphed
indecision. Their presses, to enfeeble the popula
ing, imputed the conduct of France to the irritatin
ceedings of the Administration;* openly defend
decree which would have put an end to all neutrali
demanded why the President had mysteriously w
the official documents? England, they alleged
menced the aggressions upon neutral commerce.
was compelled to retaliate. It would be unjustifi
the United States to resort to arms; nor was this
alone defensible on that ground, it would militat
against England,—to America it might prove bene

In vain were the alarming tidings from Euro
ceived. Intelligence of an incipient Revolution i
land, by which the last vestiges of her independenc
effaced—Holland, a nation to whom the United
owed such large obligations.—Information that S
land had become the prey of French faction and in
Switzerland, the eldest republic of modern Europe
vices that both the Councils of France had unanir
sanctioned the atrocious decree against neutral com

* Madison to Jefferson, Feb. 12, 1798. "France will not acquies
the advantage which that insidious instrument" (the British treaty) "
her enemy" stating that we had thereby "stipulated that Britain m
der us."

† Jefferson to Madison, iii. 378, March 15, 1798. "The Frenc
has produced a great sensation among the merchants here. Its oper
not yet perhaps well understood; but probably it will put our shippin
competition, because British bottoms, which can come under conv
alone be trusted with return cargoes. Ours, losing this benefit, would
higher freight out, in which, therefore, they will be underbid by the
They must then retire from the competition. Some, no doubt, will tr
channels of commerce, and return cargoes from other countries. Th
would be *salutary*." "Another good effect" adverted to was, the "c
and withdrawing our extensive commerce and navigation within those
to which peace must necessarily bring them."

—so entirely all resistance had ceased—all freedom of opinion been extinguished—The recent violation of the American territory by a French privateer; plundering and burning a merchant vessel in the harbor of Charleston—none of all these events produced any impression on the leaders of the Democracy. The contemplated descent upon England was the great event to which they looked. The means were discussed, the visionary projects of the impious Paine * deemed probable;—and an attempt, which Bonaparte then rejected as a "barbarous incursion." † they hailed as the consummation of their hopes. Her downfall was to insure their elevation.

* Paine, a *native* of *England*, framed a plan for raising the requisite funds, and proposed to cross the Channel with *gunboats*.

† "Mais il sentait que conquerir le pays, s'y établir serait impossible; qu'on pourrait seulement le ravager, lui enlever une partie de ses richeses, le reculer, l'annuler pour un demi-siecle, mais qu'il faudrait y sacrifier l'armée qu'on y aurait amenée, et revenir presque seul, apres une espece *d'incursion barbare*." Thiers, t. 10, p. 14.

CHAPTER CXL.

With intense anxiety, Hamilton awaited the result
the mission. As a mean either of averting war, or
uniting the American people, he had advised it; a
when he was compelled to fear that neither of these e
had been attained, his solicitude rose to the highest poi

The President had submitted to his cabinet, some ti
before, questions as to the course to be pursued in c
this overture should fail. These questions were tra
mitted to Hamilton for his advice by the Secreta
at War. He bestowed upon them the most serious
flection. The result was communicated to McHen
and by him, with slight modifications, embodied in a
port to the President. The substance is given in a let
of the seventeenth of March, addressed, before the agg
vated insults which had been heaped upon the env
were known to him, by Hamilton to Pickering:

"I make no apology for offering you my opinion on the pres
state of our affairs. I look upon the question before the publi
nothing less than whether we shall maintain our independence; an
am prepared to do it in every event, and at every hazard. I am th
fore of opinion, that our Executive should come forward on this ba

"I wish to see a *temperate* but *grave, solemn,* and *firm* commu
cation from the President to the two Houses on the result of the
vices from our Commissioners. This communication to review su
marily the course of our affairs with France from the beginning to

present moment; to advert to her conduct towards the neutral powers generally, dwelling emphatically on the last decree respecting vessels carrying British manufactures, as an unequivocal act of hostility against all of them; to allude to the dangerous and vast projects of the French Government; to consider her refusal to receive our minister as a virtual denial of our independence, and as evidence, that, if circumstances favor the plan, we shall be called to defend that independence, our political institutions, and our liberty against her enterprises; to conclude, that, leaving still the door to accommodation open, and not proceeding to final rupture, our duty, our honor, and safety, require that we shall take vigorous and comprehensive measures of defence, adequate to the immediate protection of our commerce, to the security of our ports, and to our eventual defence, in case of invasion; and with a view to these great objects, calling forth and organizing all the resources of the country. I would, at the same time, have the President to recommend a day of fasting, humiliation and prayer. The occasion renders it proper, and religious ideas will be useful. I have this last measure at heart.

"The measures to be advocated by our friends in Congress to be these:—I. Permission to our merchant vessels to arm and to capture those which may attack them. II. The completion of our frigates, and the provision of a considerable number of sloops of war, not exceeding twenty guns.* Authority to capture all attacking, and privateers found within twenty leagues of our coast. III. Power to the President, in general terms, to provide and equip ten ships of the line, in case of open rupture with any foreign power. IV. The increase of our military establishment to twenty thousand, and a provisional army of thirty thousand, besides the militia. V. The efficacious fortification of our principal ports—say Portsmouth, Boston, Newport, New London, New York, Philadelphia, Norfolk, Baltimore, Wilmington, N. C., Charleston, Savannah. 'Tis waste of money to be more diffusive. VI. The extension of our revenue to all the principal objects of taxation, and a loan commensurate with the contemplated expenditures. VII. The *suspension* of our treaties with France, till a basis of connection shall be re-established by treaty.

"In my opinion, bold language and bold measures are indispensable. The attitude of *calm defiance* suits us. It is vain to talk of

* "To serve as convoys."

peace with a power with which we are actually in hostility. The election is between a tame surrender of our rights or a state of mitigated hostility. Neither do I think that this state will lead to general rupture, if France is unsuccessful; and, if successful, there is no doubt in my mind, that she will endeavor to impose her yoke upon us."

The Secretary of State answered, that the President had determined to recommend a fast; and had given permission to merchant vessels to arm, by withdrawing his restrictions; that the frigates were to be completed; that a zealous opposition would be made to a further augmentation either of the Naval or Military establishments; and he proposed, instead of a suspension, that there should be a declared *annihilation* of the treaties with France, on the ground of her frequent infractions of them. He mentioned, that the cession of Louisiana had been pressed; and inquired, what course should be taken to engage the assistance of the British government; that no communication had hitherto been made to any person upon that subject. He also gave an abstract of the recent correspondence of the envoys at Paris.

Hamilton stated,* that the call of the Senate on the President for these papers had been universally approved; that he deemed

"it essential that so much as possibly can, should be communicated, confidence will otherwise be wanting, and criticism will ensue which it will be difficult to repel. The observation is, Congress being called upon to discharge the most important of all their functions, it is too much to expect that they will rely on the inference of the Executive, from materials which might be put before them." The recent example of the British King is cited. "Pray let all that is possible be done."

He subsequently† wrote:

"I am against going immediately into alliance with Great Britain.

* March 23. † March 27.

It is my opinion that her interest will insure us her co-operation to the extent of her power, and that a treaty will not secure her further. On the other hand, a treaty might entangle us. Public opinion is not prepared for it. It would not fail to be represented as the *point to which our previous conduct was directed;* and, in case of offers from France, satisfactory to us, the public faith might be embarrassed by the calls of the people for accommodation and peace. The *desideratum* is, that Britain could be engaged to lodge with her *minister here*, powers commensurate with such arrangements as exigencies may require, and the progress of opinion permit. I see no good objection on her part to this plan. It would be good policy in her to send to this country a dozen frigates to pursue the directions of this government. If *Spain* would cede *Louisiana* to the United States, I would accept it absolutely, if obtainable absolutely, or with an engagement to *restore*, if it cannot be obtained absolutely."

Two days * after Hamilton's letter of the seventeenth was received by the Secretary of State, the President sent a message to Congress. He stated, that the despatches of the Envoys had been maturely considered. That their exertions for the adjustment of the differences had been sincere and unremitted; but, that he perceived no ground of expectation that the objects of their mission could be accomplished on terms compatible with the safety, honor, or the essential interests of the nation. That he could discern nothing which could have insured or contributed to success, that had been omitted on his part; and nothing further which can be attempted, consistently with maxims for which our country has contended at every hazard, and which constitute the basis of our national sovereignty. He exhorted them to adopt with promptitude, decision and unanimity, such measures as the ample resources of the country afford for the protection of commerce, the defence of their territory, replenishing the arsenals, establishing foundries and mili-

* March 19.

tary manufactures, and providing an efficient revenue. He announced that the orders restraining the merchant vessels from arming had been withdrawn, and urged the importance in all their proceedings of manifesting a zeal, vigor, and concert in defence of the national rights, proportioned to the danger with which they were threatened.

This decisive communication gave deep umbrage to the leader of the opposition. Jefferson wrote to Madison: *

"The insane message, which you will see in the public papers, has had great effect. Exultation on the one side and a certainty of victory; while the other is petrified with astonishment." He advised, that Congress should pass a legislative prohibition to arm; if it should fail in the Senate, he believed "it would heap coals of fire on their heads," and, "as to do nothing and so gain time was every thing" with them, that they should resolve to adjourn, "in order to go home and consult their constituents on the great crisis of American affairs now existing." "Besides gaining time enough by this," he observed, "to allow the descent on England to have its effect *here* as well as there, it will be a means of exciting the people from their inattention. Each member will be required to call for the sense of his district by petition or instruction." "The people will see who are for war, and who for peace;" and "their representatives will return here, invigorated by the avowed support of the American people."

He imputed the indignation against the wrongs of France to designs against the Government, perhaps against the integrity of the Union. Not a sigh, not a lisp, not a murmur was heard from him in behalf of his injured, insulted country.

The first objects Jefferson sought were to impair the effect of the President's message; to paralyze the public sentiment; to alarm with the cry of war.

* March 21, 1798.

The Legislature of Pennsylvania was in session. The day after the President's message, a resolution was introduced in that body, openly declaring their disapprobation of seeking redress by arms, the expense of which must be certain and the event doubtful; that there was equal danger to be apprehended from the protection of one, as from the hostility of the other of the belligerent rivals. They therefore bore their testimony against war in any shape or with any nation, unless the territories of the United States should be invaded, but more especially against a "people with whom their hearts and hands have been so lately united in friendship." This resolution was rejected.* The same opinions were subsequently embodied, in a petition which was signed by a minority of the House.

The Senate of the United States felt the importance of immediate preparations for defence; and resolutions were moved, that the fortifications should be completed; a provisional army be raised; military stores provided, and an embargo laid. The proposition for an embargo was unadvisedly brought forward. As a mean of preventing the arming of private vessels, it was supported by a few † of the opposition, but was rejected by a large vote. It was deemed an essential object to neutralize the action of the Senate by the proceedings in the House. The contemplated motion of Jefferson to adjourn and leave the country defenceless at such an emergency, was more than the most ardent of his partisans could be induced to venture. He then advised, and they determined on a more insidious policy. At the moment when the House

* Jefferson remarked: "It was rejected by the Quaker vote—showing 'that their attachment to England is stronger than to their principles, or to their country.'"

† Anderson, Bloodworth, Andrew Jackson, and Tazewell.

had formed itself into a committee on the state of the Union, to consider the message of the President, three resolutions* were offered,—that it was not expedient to *resort* to war against the French Republic; that merchant vessels should be, by law, restricted from arming; and that adequate provision should be made for the protection of the sea coast and for the internal defence of the country. Thus France was to be apprised, no matter what depredations she should commit, no matter what injuries she should inflict, no matter what insults she should accumulate, that the United States would not resort to war against her—that the merchant vessels would be denied the right of self-defence—without any naval armament to convoy them; and, that all that was required, were measures of internal defence—measures which had been in vain urged, and always frustrated.†

* Called "Sprigg's resolutions."

† Washington to McHenry:

"MOUNT VERNON, 27th March, 1798.

"DEAR SIR: Your favor of —— came safe and in due time; for the information contained in it I thank you; your request was immediately complied with, as every one of a similar nature shall be.

"A report is circulated in Alexandria and its vicinity, transmitted, it is said, in private letters from Philadelphia, that a correspondence has been discovered, or more properly letters have been intercepted from some M——rs of Cg——ss to the D——ct——y of F——, of a treasonable nature—containing, among other matters, advice not to receive our envoys; on the contrary, to menace us with hostile appearances, and they might rely upon bringing the U. S. to her terms. The name of one person has been mentioned to me. Cruel, must these reports be, if unfounded; and if founded, what punishment can be too great for the actors in so diabolical a drama! The period is big with events, but what it will produce is beyond the reach of human ken.

"On this, as upon all other occasions, I hope the best. It has always been my belief, that Providence has not led us so far in the path of independence of one nation, to throw us into the arms of another; and that the machinations of those who are attempting it, will sooner or later, recoil upon their own heads. Heaven grant it may happen soon upon all those whose conduct deserve it."

Jefferson hoped, that the Federalists, taken by surprise, would not dare to oppose this popular proposition of peace; that, if the season could be gained, the Democratic party would be saved, that the affairs of Europe would save them; but he feared that they would be "borne down, and was under the most gloomy apprehensions." * An alliance, offensive and defensive, with Great Britain, he apprehended, might be the result; and a rumor was circulated, that such a pact was in contemplation.

The debate on these resolutions marked the temper of the House. A leading Federalist avowed his belief, that the time was not far distant when war must be resorted to, or the national honor and interest be abandoned. To forbear to declare war was a sufficient expression of their sentiments, wherefore pass this negative resolution? It was only a text from which it was intended to alarm the people. The opposition were called upon to adopt the language of the Constitution, and to propound the question, was it expedient "to declare war?" This was refused, for the "pacific resolutions had not been the work of a moment."

Baldwin, Gallatin, Giles and Nicholas, were conspicuous supporters of these resolutions. They insisted, that the language of the President amounted to a declaration of war; that such a war would be a war of extermination, and that Congress were bound to interpose their check upon any measures of such a tendency. The moment we went beyond our jurisdictional line, Giles remarked, "defence will become offence. The House was acting in the dark; something was not correct, which was the reason the expected papers were not sent." He

* Jefferson to Madison, iii. 382. March 29.

insisted, that France had heavy complaints, arising principally from the operation of the British treaty, that fatal instrument to the United States. Her decree against neutral commerce he condemned, but we exported to France and nations under her influence thirty-six millions of dollars—to Great Britain only eight. Against whom are we to arm? Against those who receive thirty-six millions for the protection of the eight millions, two-thirds of which are re-exported. Perhaps it may be said, what will you do, if France carries her injuries further? "*I would*," he avowed, "*draw ourselves within our shells.* I would sooner (though I do not pledge myself to do it) indemnify our commercial citizens than go to war. I am now, and always have been for peace."

"Have we any other choice," Harper inquired, "but to resist, or to submit? Was not this clamor for peace, to declare we must submit not only to the injuries we have received, but to whatever may follow? You desire peace! What was the spirit of the peace you wish to preserve?—a spirit which he deemed vile submission—a spirit which was afraid to complain, and which met every new insult without murmur. We are told, when an invasion is attempted, it will then be time to prepare for war. He apprehended, that the same spirit which led them now to submit, would induce them then to surrender."

The debate was interrupted by the motion of a Federalist calling for a disclosure of the correspondence of the envoys, or, of such parts as considerations of public safety and interest would, in the opinion of the President, permit. Livingston moved to expunge the qualification, and to insert a demand for the instructions. A new discussion arose upon this motion. It was opposed by those who condemned the precedent. The debate on the peace

proposition was in the mean time resumed, and a decision was earnestly requested; but the resolution calling for the papers and instructions passed, and the following day they were transmitted to the House. The attempt to precommit it against a declaration of war was then abandoned.

The introduction of these resolutions evinced either the greatest temerity in the opposition, or conviction of the pusillanimity of the nation. The extent to which the public mind had been poisoned by foreign influence excited alarm; and, the question seemed to be, as Hamilton had stated it, "whether we shall retain our independence?" But still it was not so viewed by the people at large. No indications were seen of that rising of national feeling which the crisis ought to have produced. There was indeed a foreboding silence, but whether that silence indicated submission or resistance, it was impossible to determine.

Hamilton could not believe that the American people had so soon and so much degenerated. He could not believe that the spirit of the Revolution was altogether gone. He saw around him, yet surviving, most of his comrades in that glorious strife. He would not indulge the degrading supposition, that in his own bosom burned more ardently than among millions of his countrymen the sacred flame of patriotism.

In his letter to Pickering he had advised, as seen, "a *temperate* but *grave*, *solemn*, and *firm* communication from the President, reviewing summarily the course of our affairs with France." Hamilton advised this review, because he saw that the prolixity of the discussions between the United States and France, and her repeated misstatements of the questions at issue, had left upon the great mass of the community, no distinct, definite impressions. Her injuries

had been so often veiled or excused by the Democratic leaders that he felt it of the highest importance they should clearly perceive their true position before they entered upon this great and hazardous contest.

Similar advice was given by him to Sedgewick:

"The President ought to make a solemn and manly communication to Congress. The language grave and firm, but without invective—in which, after recapitulating the progress of our controversy with France, the measures taken towards accommodation and stating their degrading result, he ought to advert to the extremely critical posture of Europe, the excessive pretensions of France externally, her treatment of the neutral powers generally, and dwelling emphatically on the late violent invasion of their commerce, as an act destructive of the independence of nations—to state that eventual dangers of the most serious kind hang over us, and that we ought to consider ourselves as bound to provide with the utmost energy for the immediate security of our invaded rights and for the ultimate defence of our liberty and independence, and conclude with a recommendation in general terms to adopt efficient measures for increasing our revenue, for protecting our commerce, for guarding our seaports, and ultimately for repelling invasion —intimating, also, that the relations of treaty which have subsisted between us and France, and which have been so entirely disregarded by her, ought not to remain by our constitution and laws binding upon us, but ought to be suspended in their operations, till an adjustment of differences shall re establish a basis of connection and intercourse between the two countries, taking especial care, however, that merely defensive views be indicated."

After a recapitulation, though more at large, of the measures proposed by him to Pickering, he remarked:

"These measures to a feeble mind may appear gigantic. To yours they can only appear excessive, as far as it may seem *impracticable* to get them adopted. For my part, I contemplate the possible overthrow of England, certainly of invasion, and the *duty* and practicability, in that event, of defending our honor and our rights.

"Let the President also call to his aid the force of religious ideas by a day of fasting, humiliation and prayer. This will be in my opin-

ion no less proper in a political than a religious view. We must oppose to political fanaticism religious zeal. I do not enter into a detail of reasons for the respective measures. They will all occur to you. I consider the independence of nations as threatened, and I am willing to encounter every extremity in the preservation of ours.

"In all our measures, however, let it be seen, that final rupture is desired to be avoided, as far as may consist with security, and the United States still stand ready to accommodate. I write in extreme haste.

"P. S. I beseech you, exert yourself to induce the New England Representatives, if not already done, to forward the bill for providing an indifferent mode of trial in cases in which *States* are concerned. Without it, a civil war may ensue between us and Connecticut, and the Federal interest will at any rate be much injured."

This last remark was in allusion to a territorial controversy between New York and Connecticut, as to which a trial was had at Hartford, where, contending for the rights of New York, Hamilton made one of his most distinguished forensic efforts.

Deeply moved by the menacing aspect of public affairs, he now resolved again to arouse and to direct the feelings of the people. Selecting the signature of "Titus Manlius," as commemorative of the successful stand taken by the ancient republicans of Rome against the invasion of the Gauls, he published, on the thirtieth of March, a series of essays entitled "THE STAND."

His opening remarks exhibit his own impressions as to the state of the public feeling.

"The enlightened friends of America never saw," he observed, "greater occasion of disquietude than at the present juncture.

"Our nation, through its official organs, has been treated with studied contempt and systematic insult; essential rights of the country are perseveringly violated; and its independence and liberty eventually threatened, by the most flagitious, despotic, and vindictive government that ever disgraced the annals of mankind, by a government

marching with colossal strides to universal empire—and, in the execution of this hideous project, wielding with absolute authority the whole physical force of the most enthralled but most powerful nation upon earth. In a situation like this, how great is the cause to lament, how afflicting to every heart, alive to the honor and interest of the country, to observe, that distracted and inefficient councils, that a palsied and unconscious state of the public mind, afford too little assurance of measures adequate either to the urgency of the evils which are felt, or to the magnitude of the dangers which are in prospect."

He next contrasted the elevated and energetic spirit of the Revolution, its unanimity—its success—with the present temper of the nation—pointed to the FIVE TYRANTS of France—their revolutionary despotism at home—their implacable, obstinate, remorseless prolongation of the calamities of Europe—their long train of unprovoked aggressions and affronts and insupportable outrages to America—filling up the measure of national insult and humiliation. He lamented the divisions in Congress. On the one side, unremitting efforts to justify or excuse the despots of France, to vilify and discredit our own government, to destroy its necessary vigor, damp the zeal of the citizens, and divert their affections from their own to a foreign country—on the other side, neither expanded views of our situation, nor measures at all proportioned to the seriousness and extent of the danger. While our independence is menaced, little more is heard than of guarding our trade, and this in very feeble and tremulous accents.

In the community, though sounder, he saw the same enervating dispositions—a few prostituted to a foreign enemy and willing that their country should become a province of France; insinuating, that, in case of invasion, they would join her standard—others willing to sacrifice commerce, and to become tributary, rather than to encounter war or increase the chances of it.

He then depicted in the boldest colors the power, the vigor, the resources of this country, and called upon the nation to maintain their sovereignty, to resist, and to resist with energy.

"That," he said, "will be a narrow view of our situation which does not contemplate, that we may be called at our very doors to defend our independence and liberty, and which does not provide against it, by bringing into activity and completely organizing all the resources of the country."

The second of these eloquent essays examined the question as to the origin of the war, and showed that from the moment the National Assembly, which dethroned the King, declared itself "a *Committee* of INSURRECTION of the whole human race, for the purpose of overturning all existing governments," France commenced a career of hostility to the world, which she had continued throughout all her political changes.

"How far," he said, "it may have been wise in a particular government to have taken up the gauntlet, or, if in its option, to have left France to the fermentations of the pernicious principles by which its leaders were actuated, is a question of mere expediency, distinct from the right. It is also a complicated and difficult question—one which able and upright men might decide different ways. But the right is still indisputable. Neither were they bound to be satisfied with after explanations or qualifications of the principles which had been declared. They had a right to judge conscientiously whether reliance could be placed on any pretended change of system, and to act accordingly."

"The means of effecting her purpose were to destroy all religious opinion, to pervert a whole nation to Atheism, a phenomenon of profligacy! to deprave morals, by laws of easy divorce, and by guilty applauses of accusations by children against their parents. Its success was seen in the successive subversion and subjugation of all the minor powers of Europe. Ambition and fanaticism marching hand in hand, bearing the ensigns of hypocrisy, treachery, and rapine."

The conduct of France towards the United States, was the subject of the succeeding essays, and these were chiefly important. They gave a clear, succinct exposition of the questions which had arisen out of the treaty of seventeen hundred seventy-eight; of the rights and duties of neutrals, of the policy of the American government, and of the alleged injuries of France, resulting in a complete vindication of that policy not only from the charge of injustice, but unfriendliness—showing that the United States had done more than was required—more than strict neutrality towards England would sanction.

A review of the conduct of the French government compelled the conclusion, that its objects had been, with the aid of their American partisans, to degrade the Government and prepare the way for Revolution, perhaps conquest. It was followed by a consideration of the probability, the inducements, the means and the dangers of an invasion.

"It is asked," he observed, "what motives sufficiently potent can stimulate to so unpromising an attempt? The answer is, the strongest passions of bad hearts, inordinate ambition, the love of domination, that prime characteristic of the despots of France, the spirit of vengeance for the presumption of having thought and acted for ourselves—a spirit which has marked every step of the revolutionary leaders—the fanatical egotism of obliging the rest of the world to adapt their political system to the French standard of perfection—the desire of securing the future control of our affairs by humbling and ruining the independent supporters of their country, and of elevating the partisans and tools of France—the desire of entangling our commerce with preferences and restrictions which would give to her the monopoly; these passions, the most imperious, these motives, the most enticing to a crooked policy, are sufficient persuasives—to undertake the subjugation of this country.

"Added to these primary inducements, the desire of finding an outlet for a part of the vast armies which on the termination of the European war are likely to perplex and endanger the men in power, would

be an auxiliary motive of great force. The total loss of the troops sent would be no loss to France. Their cupidity would be readily excited to the undertaking by the prospect of dividing among themselves the fertile lands of this country. Great Britain once silenced, there would be no insuperable obstacle to the transportation. The divisions among us, which have been urged to our Commissioners as one motive to a compliance with the unreasonable demands of the Directory, would be equally an encouragement to invasion. It would be believed, that a sufficient number would flock to the standard of France, to render it easy to quell the resistance of the rest. Drunk with success, nothing would be thought too arduous to be accomplished."

"There are," he said, "currents in human affairs, when events, at other times little less than miraculous, are to be considered as natural and simple. Such were the eras of Macedonian, of Roman, of Gothic, of Saracen inundation. Such is the present era of French fanaticism Wise men, when they discover the symptoms of a similar era, look for prodigies, and prepare for them with foresight and energy. But, if improbable, yet if the apprehension is not absolutely chimerical, it is the part of wisdom to act as if it was likely to happen! What then," he asked, "was to be done? To compound with rather than provoke resistance? That were dishonor—ruin—death. It would be to purchase disgrace, not safety. We must resist. Shall we declare war? No. There are still chances for avoiding a general rupture which ought to be taken. Our true policy is, in the attitude of calm defiance, to meet the aggressions upon us by proportionate resistance, and to prepare vigorously for further resistance. We must invigorate the Treasury,—fortify our chief seaports,—create a respectable naval force —raise a considerable army. Our merchant vessels ought to be permitted not only to arm themselves, but to sink or capture their assailants. Our vessels of war to cruise on our coasts, and serve as convoys, authorized to sink or capture assailants, and bring in privateers hovering within twenty miles of our coast. This implies a war, but a limited and mitigated state of war, to grow into general rupture or not, at the election of France." The declared suspension of the treaties with her, he deemed a measure of evident justice and necessity—the natural consequence of a total violation on one side. The Consular convention ought also to be dissolved, as a "mischievous instrument devised by France in the spirit of extending her influence to other countries."

These essays were commenced immediately after Hamilton had received a confidential letter from the Secretary of State, containing the substance of the late despatches from the Envoys.

Copies of these despatches were, on the third of April, communicated in confidence, by the President to Congress. They disclosed one of the most profligate scenes in diplomacy.

In total disregard of the usage of nations and for the purpose of humiliating the United States, their Extraordinary Envoys were refused an audience. The pretext assigned was, that the Directory were greatly exasperated at the President's speech, and would require an explanation of it. They were informed, that until their negotiation was concluded, no public audience would probably be granted to them. That their communications would be with persons selected by and to report to Talleyrand.

Informal agents, probably panders* and mistresses, were employed to intrigue with the Envoys. They mentioned the irritation produced by that speech; urged it should be softened as due to their honor, and to that of the Republic; and yet suggested, as a substitute, the contribution of a sum of money. Thus to soften the irritation and prepare the way for a negotiation, a douceur of fifty thousand pounds sterling for the personal benefit of the Directory was required.† Acting upon the assurances of Monroe, which brought upon this nation such grievous

* Indicated in the despatches by the initials "X. Y. Z." in consequence of a pledge that the names would not be given. They were Hottinguer, Bellamy and Hauteval.

† A similar proposition was made to Lord Malmesbury. "In the beginning of the negotiation, a person named Potter came to Lord M., stating that he was sent by Barras to say, that if the English Government would pay that Director £500,000 he would ensure the peace." Harris's Papers, iii. 492.

humiliation, a loan was also demanded—a masked loan of more than twenty millions of dollars—a sum equal to all the spoliations of France on the American commerce, not to be applied to the payment of, nor as an indemnity for those spoliations, but to the immediate use of France. This being acceded to, a mode, it was intimated, might perhaps be adjusted for the liquidation of the claims of the merchants to be made at some future period. But until a treaty should be concluded, and which, from the distance of the countries, would require the lapse of much time, the depredations were to be unrestrained.

In addition to this loan, thirty-two millions of Dutch "Inscriptions," nearly thirteen millions of dollars, were to be purchased at par, and the ability of the Batavian Republic to redeem them was to be looked to. These "Inscriptions" were already depreciated one-half their nominal value, would probably become valueless, and thus, under this veil, a further and enormous contribution was to be extorted. "We must have money,—a great deal of money;" and then "Talleyrand trusted, that by his influence with the Directory he could prevail on the Government to receive them." Unless they acquiesced in this extortion, the Envoys were informed they might remain in Paris six months without advancing a step.

In a subsequent conversation between the French Minister and one of the Envoys, another form was given to the propositions. The United States were to purchase at par sixteen millions of "Inscriptions," and to *promise further aid when in their power*. This being done, measures of indemnity for the captures were to be taken. This promise of aid was to become the pretext for withholding this indemnity, and would have embarked the United States as an associate in the war.

An interview was next held with Gerry alone, who was informed, that Talleyrand had expected to see the several envoys often in their *private* capacities. The same views were disclosed to him, by that minister. When apprised by Gerry, that they had no power to make a loan, but would send one of their number home for instructions, provided the other objects of the negotiations could be discussed and adjusted, he was told that this matter *about the money* must be settled *directly, without* sending to America; and, if the difficulty as to the speech was disposed of, the application for the loan would then go to the United States. The bribe was to be in hand. The loan in promise. They were again approached by an agent, were told, if they would pay, "by way of fees," the required douceur, they would be permitted by the Directory to remain in Paris unaccredited, until one of them proceeded to the United States to consult as to the loan. But the American property was not to be released meanwhile, nor the depredations to cease.

The tone of the Directory rose with the rising fortunes of their arms. These insulting demands not being acceded to, the envoys were informed, that the Directory were becoming impatient, and would take a decided course with regard to America, if they could not soften them; that "they did not speak to the point." "IT IS MONEY—it is expected you will offer MONEY." They answered, that they had spoken very explicitly. "No—no," it was replied, "you have not. What is your answer?" They rejoined, it is "No, no. Not a sixpence."

These attempted extortions were repeated at various times. To induce acquiescence, the attention of the envoys was called to the situation of the United States, and

to "the force France was capable of bringing to bear" upon them. They were reminded, that the FATE of VENICE was one which might befall the United States. "Perhaps," it was said, "you believe that in returning and exposing to your countrymen the unreasonableness of the demands of this government, you will unite them in their resistance to those demands. You are mistaken—You ought to know that the diplomatic skill of France, and the means she possesses in your country, are sufficient to enable her, with THE FRENCH PARTY IN AMERICA, to throw the blame which will attend the rupture on the Federalists, as you term yourselves, but on the British party, as France terms you, and you may assure yourselves this will be done." * Threats of ravaging the American coasts followed!

That such things were permitted to be repeated, fills a dark page in the history of this country. Yet two of these Envoys were men of the highest tone of feeling. Pinckney and Marshall—wise men and patriots—men whose lives were all a course of honorable distinction. What must have been their conviction of the state of public opinion at home, thus to compel them to brook such gross indignities to their country?

The disclosure of these aggravated insults—the manly language of the President—Hamilton's ardent and well-

* On the 12th November, 1796. Soon after his return to France, Talleyrand, writing to Hamilton to solicit his professional services, observed—"On ma beaucoup questioné sur l'Amerique au moment du mon arrivé, j'ái respondu, comme J'y le devois, et en des termes qui, je crois, vous auroient convenu. Je n'ai pas manqué surtout de dire, que je ne croyais point a l'eloignment des Americaines pour les François, quand meme cet eloignment existeroit, il m'y auroit rien de plus naturel *d'apres la conduite folle et audacieuse des agents* de la France qui *sétoient toujours montrés l'ennemis de votre gouvernement.*"

timed publications broke the infatuation of the people. The pride of the nation was aroused. From every hill and from every plain—from every mountain side and every lowly valley, the cry was heard—the thrilling cry, "Millions for defence—not a cent for tribute."

CHAPTER CXLI.

HAMILTON's heart beat responsive to the throbbings of the nation's pulse. Towards him every eye was directed. He stood like Demosthenes arousing the Athenians against the craft of Philip;—that "all Greece—all the Barbarian world was too narrow for his ambition, who either ruled universally as a conqueror, or governed as a protector;" and exposing the arts of the venal pensioners of Macedon, "that he might be at liberty to carry on the war against Athens, while she made no war on him."

Wherever energy or counsel were required, he was called for. A leading member of Congress wrote him, "Could any thing prevail on you to take the War department? Reflect on the importance of the station at this moment. Consider how much more important a war minister is than a General, and how much more difficult to be found."* Governor Jay announced to him his intention to send him a commission to represent New York in the Senate of the United States. "If, after well considering the subject," Jay remarked, "you should decline an appointment, be so good as to consult with some of our most judicious friends, and advise me as to the person most proper to appoint, and at the same time likely

* R. G. Harper to Hamilton, April 27, 1798.

to accept." Both stations were declined. "There may," he answered Jay, "arise a crisis when I shall feel myself bound once more to sacrifice the interests of my family to the public weal, but I must defer the change as long as possible. I do not think of a person to recommend adapted to the emergency. I shall reflect, and consult, and write you by the next post."

Jefferson, in the mean time, was speculating on the probable defection of his partisans; deprecating the genius of Hamilton; soliciting subscriptions for the "Aurora;" sneering at the X. Y. Z. fever; denouncing the President. All his letters depict his extreme alarm, his insensibility to the national honor—his active, persevering, subtle machinations. "Private letters," he writes Madison on the fifth of April, "from France assure us, that France, classing us in her measures with the Swedes and the Danes, has no more notion of declaring war against them than us. * * * You will see a letter in Bache's paper of yesterday which came addressed to me." This letter was from Talleyrand. What reflections it suggests!—The Vice President of the United States in private correspondence with the Minister of a power warring on American commerce, using his advices to check the public indignation at her wrongs, and to obstruct measures of defence, protection, vindication.

"Still the fate of Sprigg's resolutions," he adds, "seems in perfect *equilibrio*. You will see in Fenno two numbers of a paper signed 'Marcellus.' They promise much mischief, and are ascribed, without any difference of opinion, to Hamilton.* You must, my dear sir, take up your pen against this champion. You know the ingenuity of his talents, and there is not a person but yourself can foil him. For heaven's sake, then, take up your pen, and do not desert the public cause altogether." "The first impressions," (made by the despatches,)

* They were not Hamilton's.

he wrote the next day, "with the people will be disagreeable, but the last and permanent one will be, that the speech in May is now the only obstacle to accommodation, and the real cause of war, if war takes place. And how much will be added to this, by the speech of November, is yet to be learned. It is evident, however, on reflection, that these papers do *not offer one motive the more* for going to war."

Again* he unbosoms himself:

"The public mind appears still in a state of astonishment. There never was a moment in which the aid of an able pen was so important to place things in their just attitude. On this depend the inchoate movements in the Eastern mind, and the fate of the elections in that quarter, now beginning and to continue through the summer. I would not propose to you such a task on any ordinary occasion. But, be assured, that a well-digested analysis of these papers would now decide the future turn of things, which are at this moment on the creen." As a motive, he suggests, the "checking the rising spirit of New England, and beating up the party of Jay in New York."

Before the publication of these despatches, on the second of April, Madison wrote to Jefferson, condemning the Government for having made no disclosure of their contents. Jefferson, in reply,† calls the requisition for money, a demand of "*submission* to a heavy *amercement*," (upwards of a million sterling) and says the imputation made by France on her supporters, was "the bait which hurried the opposite party into this publication."

The contents of these despatches being known, Madi-

* April 12.

† April 6–April 11, Jefferson wrote, "Demands have been made of a large some of money from us as *a mulct* or satisfaction for the President's speech." Bonaparte at St. Helena states, "Certain intriguing agents, with which sort of instruments the office of Foreign Affairs was at that period abundantly supplied, insinuated that the demand of a loan would be desisted from, upon the advance of 1,200,000 francs, to be divided between the *Director* Barras and the Minister Talleyrand."

son changed his tone, and fell in with Jefferson's view. He answers vehemently: *

"The injustice seems equal to the temerity of publishing such a libel on the French Government. I am sorry to learn that the Naval bill is likely to be carried, and particularly that any of our friends should, by their leaving Congress, be accessory to it." He adds, that he is getting up petitions. "The sanguinary faction," he again writes,† "ought not however to adopt the spirit of Robespierre without recollecting the shortness of his triumphs and the perpetuity of his infamy. The contrivance of Jay for reproducing Hamilton into office, suggests, no doubt, a variety of conjectures. If the contrivance is to be ascribed to Jay, it probably originates in the alarm with which the consequences of the treaty have thrown its author, and the new demand of the services of its champion. Events have so clearly demonstrated the great objects of that treaty to have been, to draw us into a quarrel with the enemies of Great Britain, and to sacrifice our navigation to hers, that it will require greater efforts than ever to screen the instrument and the author, much longer, from the odium due to them." He declined Jefferson's proposal to "analyze the despatches," who urges subscriptions to newspapers, which "totter for the want" of them. "If these papers fall, republicanism will be entirely brow-beaten."

Amid all their extenuation of France, and imputations on the adversaries they so intensely hated, still these men trembled before the advancing tide of public opinion:

"The spirit," Jefferson writes to Madison, "kindled up in the towns is wonderful. These and New Jersey are pouring in their addresses, offering life and fortune. Even these addresses are not the worst things. For indiscreet declarations and expressions of passion may be pardoned to a multitude acting from the impulse of the moment. But we cannot expect a foreign nation to show that apathy to the answers of the President, which are more thrasonic than the addresses. Whatever chance for peace might have been left us after the publication of the despatches, is completely lost by these answers. Nor is it France alone, but his own fellow-citizens against whom his

* April 12. † May 5.

threats are uttered." Madison chimed in. "The President also seems," he writes Jefferson, "to be co-operating for the same purpose. Every answer he gives to his addresses unmasks more and more his principles and views. His language to the young men of Philadelphia is the most abominable and degrading that could fall from the lips of the first magistrate of an independent people, and particularly from a revolutionary patriot."

Jefferson deeply felt the necessity of a pliant coadjutor in the House of Representatives as a substitute for Madison. "Home sick and heart sick," as he describes himself, he wrote to Monroe: *

"In order to place yourself on the high ground you are entitled to, it is absolutely necessary that you should reappear on the public theatre, and take an independent stand, from which you can be seen and known to your fellow-citizens. The House of Representatives appears the only place which can answer this end, as the proceedings of the other House are too obscure. Cabell has said, he would give way to you, should you choose to come in; and I really think it would be expedient for yourself, as well as the public, that you should not wait until another election, but come to the next session. No interval should be admitted between this last attack of enmity† and your reappearance with the approving voice of your constituents, and your taking a commanding attitude."

Monroe did not comply.

To weaken the effect of the late despatches, misrepresentation was combined with sophistry. "No more," it was said, "is asked, than that we should purchase sixteen millions of Dutch 'Inscriptions,' and thus secure compensation to more than quadruple that amount for the depredations which would also be intermitted; and the operation was safe, because the United States had in their debt to Holland an abundant pledge." What pledge? The

* May 21.

† Answer from Lancaster (Pennsylvania) alluding to Monroe.

creditors of the United States were the *private citizens* of the Batavian Republic. Their demands could not be opposed by a claim of our Government upon their Government. The indemnity could only be obtained by a violation of all public policy and faith, and of the express stipulations in the contracts for the loans.

It would be a master-stroke in the Democratic policy, if it were possible, to divert the attention of the people. With this intent, a recent order of England, which, in effect, enlarged the privileges of neutrals,* was brought in aid. A public meeting was called at New York, to consider the necessary means of redress. At this meeting Burr appeared, and was appointed to prepare a memorial to Congress, praying them to take effectual measures against the only government which was then resisting a common enemy.

It was the singular fortune of the Federalists, that, while exerting themselves to preserve a strictly neutral position between the great belligerent powers, to which England had the strongest motives, their counsels were so often embarrassed by the conduct of that power. Thus, at this moment, when every effort was being made to change the policy of France, and to assure to American commerce, safety on the seas, it was harassed and despoiled by British cruisers. Hamilton felt deeply the thus aggravated wrong. He called upon the Cabinet, and with difficultly suppressed resentment, also wrote to the American Minister at St. James, at the earliest moment.

"It is a great while since I received a line from you, nor indeed have I deserved one; the vortex of business in which I have been, hav-

* This order (January, 1798,) permitted neutral vessels, not only to transport the produce of the colonies of her enemies to their own countries, but to Great Britain herself, but its purport was then unknown. It was represented as warranting extensive depredations.

ing kept me from writing to you. At this moment, I presume, you will not be sorry to know my opinion as to the course of our public affairs. In Congress, a good spirit is gaining ground, and, though measures march slowly, there is reason to expect that almost every thing which the exigency requires will be done. The plan is, present defence against depredations by sea, and preparations for eventual danger by land. In the community, indignation against the French government, and a firm resolution to support our own, discover themselves daily by unequivocal symptoms. The appearances are thus far highly consoling. But, in this posture of things, how unfortunate is it, that the new instructions offered by Great Britain, which appear, according to the reports of the day, to be giving rise to many abusive captures of our vessels, are likely to produce a counter current; and to distract the public dissatisfaction between two powers, who, it will be said, are equally disposed to plunder and oppress. In vain will it be urged, that the British government cannot be so absurd as at such a juncture to intend us injury. The effects will be alone considered, and they will make the worst possible impression. By what fatality has the British cabinet been led to spring any new mine, by new regulations, at such a crisis of affairs? What can be gained to counteract the mischievous tendency of abuses? Why are weapons to be furnished to our Jacobins? It seems, the captured vessels are carried to the Mole, where there is a virtuous judge of the name of *Cambault*, disposed to give sanction to plunder in every shape! Events are not yet sufficiently unfolded to enable us to judge of the extent of the mischief, but nothing can be more unlucky than that the door has been opened. The recency of the thing may prevent your hearing any thing about it from the government by this opportunity.

"P. S.—It is said, privateers are fitting out at Antigua and St. Kitts."

Aggravated as these injuries were by past events, and peculiarly of a nature to offend the American mind, in which, obedience to law was a controlling principle, and abuse of judicial power, therefore, the more obnoxious; yet the efforts of the Democratic party to divert the attention of the people were vain. The popular indignation was now fixed on France. This rapid and earnest

change of public sentiment affrighted Jefferson. Her menaces were more felt than her wrongs. Unless a different temper could be produced, his aspirations must end. The only expedient to sustain his party, which remained, was to endeavor to influence the heated councils of their patron nation. In the mean time, to prevent decisive measures, an adjournment of Congress was strongly pressed.

Kosciusko had recently arrived in the United States, seeking compensation for his services during the Revolution. He had been at that period the intimate of Gates, and his intercourse was chiefly with the disaffected opponents of Washington. On his return to America, he was received with great cordiality by Jefferson, and was selected by him as an agent to proceed to Paris. To conceal this mission and protect him from capture, an application was made to the British Minister for a passport for him under an assumed name. It was granted, upon the assurance of the Vice President, that he would "be responsible for his political innocence, as he was going *merely for his private affairs.*" * His departure was so secret, Jefferson wrote him, "that more than two months elapsed before his absence was *known or even suspected.*" Kosciusko arrived at Paris before Gerry's departure, and the efforts of the Directory to induce that envoy to remain after his colleagues had departed, were probably increased by the communications of which he was the bearer.

After a short interval, a further despatch from the envoys was sent to Congress, embracing a full defence of the United States; and the copy of another decree, authorizing the capture and condemnation of all neutral

* Jefferson's Writings, iii. 395. Note to Liston.

vessels laden in part or in whole with the manufactures or productions of England or of her possessions. It has been seen, that the withholding the documents relating to this mission had been strongly censured by the Democratic leaders. But the moment they were read in the House of Representatives, a strenuous opposition was made to their being published. Findley urged, that they should be printed *in confidence* for the use of the members. Gallatin declared, that he was opposed to their publication, not on the ground of any effect they would produce on the citizens of this country; but from an idea that they ought not to be published before the final issue of the negotiation was known. These plausible suggestions prevailed in the House; and the motion for their being published was postponed, but the Senate ordered the publication.

The alarm which these disclosures excited was now seen. Giles, unwilling longer to breast the storm, retired from the House. Colonel Parker called a meeting of his friends, and resolved to sustain all necessary measures of preparation. But party discipline prevailed, and the seceders were few.

To intimidate the Cabinet, a meeting of the *militia officers* of Philadelphia was called, to declare their disapprobation of its conduct, and to incite them to enter into measures of opposition to the Government. A vain attempt was also made to perpetuate the delusion of the people by the circulation of a false summary of the voluminous correspondence. Jefferson openly declared, that the Directory were not implicated in the corruption displayed in these despatches, that there was no proof of their privity, that all may have been the mere contrivance of the Minister for Foreign Relations. The Aurora charged, that "Talleyrand was notoriously anti-republican

—that he was the intimate friend of Hamilton and other great Federalists, and that it is probably owing to the determined hostility which he discovered in them towards France, that the government of that country consider us only as objects of plunder." May it not with more probability be ascribed to other combining causes—to his knowledge of the influence of France in the United States —of Jefferson's and Madison's—and Giles paltering with Genet,* to the tardy resentment by the Government of diplomatic audacity, to the corruption of Randolph, to his hate of Washington,† to his contempt of Democracy. ‡

In the last number of the "Stand," speaking of the subterfuge of Jefferson, distinguishing between the Directory and the Minister, Hamilton remarked:

"The inventor of it well knew that the Executive organ of a nation never comes forward in person to negotiate with foreign ministers; and that, unless it be presumed to direct and adopt what is done by

* Monroe writes Genet, "I am happy to hear your Government has recalled you to its own, and the bosom of your friends. As a friend to free government your name will be recorded in the history of the present day." He commends the "uprightness of his heart and the *integrity* of his conduct while a *victim to pure principles*." Genet replies, alluding to the secrecy in which he "had buried the most justificatory parts of his instructions," and representing himself as "a victim to calm your Washington, supposing that he only wanted one virtue, that of knowing to pardon. If you see Mr. Giles, tell him, that I shall never forget all his kindnesses to me and his *precious confessions* in the winter of '93–'94; but that I wonder how it came to pass that on the 25th of May, 1797, he thought proper to lift up the tomahawk and the hatchet against my political ghost in Congress. Had I not tormentors enough * * * As it is said in the song of the dying Indian, 'The son of Alknomook has scorned to complain.'"

† Washington, from intimations of the probable dissatisfaction of the French Government, refused to admit Talleyrand to his levees; but it was intimated to him, that he might have a private interview. This he refused, observing, "If I cannot enter the front door, I will not go in the back."

‡ "A Democracy," said Talleyrand—"A Democracy—What is it but an Aristocracy of blackguards?"

its agents, it may always be sheltered from responsibility or blame. The recourse to so pitiful an evasion, betrays in its author a systematic design to excuse France at all events; to soften a spirit of submission to every violence she may commit; and to prepare the way for implicit subjection to her will. To be the proconsul of a despotic Directory over the United States, degraded to the condition of a province, can alone be the criminal aim of so seditious, so prostitute a character. The subaltern mercenaries went still farther. Publications appeared endeavoring to justify or extenuate the demands upon our envoys, and to inculcate the slavish doctrine of compliance. The United States, they said, are the aggressors, and ought to make atonement. France assisted them in their Revolution with loans, and they ought to recipprocate the benefit. Peace is a boon worth the price paid for it and it ought to be paid. In this motley form, our country was asked to sink, voluntarily and without a struggle, into a state of tributary vassalage. Americans were found audacious and base enough to join in the chorus of a foreign nation, which calls upon us to barter our independence for a respite from the lash."

"The charge of aggression," Hamilton asserted, "is false. The loans during the Revolution were asked to be reimbursed, and were freely granted for mutual advantage. The loans now asked are *contributions*, by the coercion of a power which had already wrested an immense property, for which it owes compensation. To pay such a price for peace is to prefer peace to independence. The nation which becomes tributary takes a master. The despatches prove, by the unreserved confession of her agents, that France placed absolute dependence on the Gallic faction in every event; and counts upon their devotion to her, as an encouragement to the hard conditions which they attempt to impose. The people of this country must be infatuated indeed, if, after this plain confession, they are at a loss for the true source of the evils they have suffered, or may hereafter suffer from the despots of France. 'Tis the unnatural league of a portion of our citizens with the oppressors of their country!"

The menacing aspect of affairs impelled the Federalists to action, but the same efforts to thwart all preparations for defence, which had preceded these disclosures, were renewed. A bill passed the Senate authorizing an additional armament for the further protection of the

trade. There, under the immediate eye of Jefferson, a clause, which provided, that, in the employment of it to convoy, it should be governed by the stipulations of subsisting treaties, and where none existed, by the law of nations, was sought to be amended by adding the phrase, "as applicable to a state of neutrality." When this act came before the House, a clause expressly authorizing the employment of the vessels as convoys, after a warm opposition, was expunged!

Nicholas objected wholly to the creation of a navy. "If we cannot," he said, "protect our commerce without injuring the rest of the Union, the government ought to say to our commercial citizens, 'We lament your situation, for a time you must act as well as you can. In times of peace, we will make you all the recompense we can.' This was all this class of citizens could expect, and all they ought to ask." The decision to strike out the clause authorizing convoys was carried by the concurring vote of the Federalists, who took the ground, that the Constitution gave to the President the command of the Navy; that to employ it for the purpose of convoy did not require the sanction of Congress, but resulted from the Constitution. Gallatin denied this doctrine, and proposed to insert an express prohibition of its being so employed. In time of peace, he considered the right of a convoy in a neutral nation as doubtful, and denied its policy. Notwithstanding all the depredations, the commerce of the country had greatly increased. This measure, he declared, would lead to war, and we had better suffer the French to go on with their depredations, as the contest with Europe was approaching its termination, than go to war. The calmness of this avowal was indignantly denounced as advising all that France desired; and as conclusive evidence, that she had successfully ex-

erted her "diplomatic skill," and used her "means with the most perfect address and sincerity."—"It was an encouragement to further depredations—a system of passive obedience and non-resistance. It asked us to surrender our commerce, to abandon our seamen; and was called peace. But is this a peace worthy the American Republic to cultivate? No American would say so."—The restriction was rejected, and the bill passed reducing the number of vessels to be provided, from sixteen to twelve. When the amendments of the House came before the Senate, Tazewell moved to postpone them until the next session, but the bill became a law.

This great arm of war required a systematic supervision. After unsuccessful attempts to limit its duration to one and to four years, a bill passed the Senate, establishing "a Department of the Navy." Much opposition was made by Gallatin, Livingston and Macon, but it was carried in the House by six votes, and George Cabot was immediately appointed Secretary of the Navy. An act was subsequently passed augmenting the naval force, by authorizing the purchase of ten vessels to be employed as galleys; and another creating a corps of marines.

Congress proceeded to carry into effect the other measures of defence suggested by Hamilton. A law, which had been defeated at the previous session, was enacted, adding a regiment of artillery to the permanent establishment; and by another act, the President was enabled to procure cannon, arms and ammunition. When the former law was under discussion, it was sought to limit its duration to one year!

While these subjects were before the House, where an effort to organize the militia into separate classes had been again unsuccessfully made,—the Senate authorized the President to raise a Provisional Army, not to exceed

twenty thousand men, in case the circumstances of the country should, in his opinion, require it. A determined stand was taken against this Act. On its first reading, Nicholas urged the immediate rejection of it. He denied the necessity of any such law under any modification;—but this law proposed to transfer to the Executive the highest act of legislative power . . . power to raise an army—which he was to exercise at pleasure. Gallatin denied the Constitutionality of the act. The Constitution said, Congress shall raise and support an army, not provide for the raising of an army. If Congress could delegate this power, they might delegate that of raising taxes. In reply to this objection, the inquiry was made—Cannot the Legislature authorize the President to begin to raise an army two months from this time? If so, may they not declare he may do it upon certain contingencies? Did the bill authorize an immediate enlistment, it would be objected, there was no evidence that the force would certainly be required; and when proposed to be raised, in case it should be required, it is opposed. Did not Congress intrust the President with the power of borrowing money? "What was there," Harper asked, "to prevent a delegation of authority to the Executive to collect specific taxes, if they should be required? What is our internal state? Do you not know, that France has in view a plan upon which they place great reliance, of gaining over to their cause, a certain class of men who abound in the Southern States, and thus subjugate or destroy the country?—Had not Victor Hughes, whose desperate character was known, a body of five thousand troops ready in the West Indies, to strike a blow whenever he shall be ordered? With such a force, within five days' sail, shall we rely on our sparse militia, fold our

arms, and declare we will make no defence? * If you object to the bill, amend it; but do not at such a moment, by such a vote, defeat the expectations of the people.

To obviate the objections, by defining the contingencies in which the discretion of the President was to be exercised, the bill was referred. An amendment was reported, that the force should be raised in the events of a declaration of a war against the United States, or of actual invasion of their territory, by a foreign power, or of imminent danger of such invasion, discovered in his opinion to exist. This amendment did not satisfy the opposition. The alleged Constitutional objection was still adhered to. As Congress, they said, could be convened within six weeks after the danger of invasion was ascertained, there was no necessity of lodging this power with the President, but the alarm of invasion was derided as an idle fear. "The true object of this act," Macon asserted, "was to get an armed force under the command of men appointed by the President, rather than under men appointed by the Executives of the States."

The Speaker replied at great length. He said, that the menaces of distant danger had already been proclaimed, but the danger was in the midst of their very camp. The member from Pennsylvania had now boldly erected his standard, and had invited all, who were disposed as himself, to rally round it. It was the ensign of opposition, not merely to the administration or to the government, but to the only measures of protection—defence—and preservation. What was the motto to be en-

* Jefferson—though opposing an army—had previously written to the Governor of South Carolina, that he "had been informed, two French gentlemen had arrived from St. Domingo, and proceeded to the South to raise an insurrection among the negroes, by order of the French government."

graved on its party-colored field?—Was it such as was seen upon the colors of the patriotic legions of seventeen hundred seventy-six? On them were inscribed "Liberty or Death." "We risk all for Independence." "We will be tributary to no foreign power!" These noble sentiments animated them in the Revolution and led them to conquest. Contrast them with the language of the member who had chosen for his motto, "Weakness and submission," written it is true in faint characters, and with a trembling hand! He asserts, that it is not the interest, nor in the power of France to invade us. Did the interest of the million control her policy? Was it consulted? Had it a voice? No. She was under a military despotism. The musket and the bayonet were the instruments of her short-lived usurpers. To save themselves they might willingly expose a part of their military hordes to the chances of an invasion. Her army of England, did it succeed, would give her the command of the British fleet. Were that descent relinquished, why should not the means now prepared to subjugate her, be directed against us? To disgorge her licentious troops; to levy contributions; and to plunder, were sufficient objects for her restless and unscrupulous ministry—a ministry whose opinion was that France wanted only a footing on this continent to regulate the destinies of the United States! As to the Constitutional objection, he well remembered, that in seventeen hundred ninety-two, the section which contains this very principle in its broadest latitude, was drawn and moved by a very respectable member from Virginia, who was also a member of the Federal Convention.* It was submitted to him before it was moved,

* James Madison. It will be remarked, that although he was the author of the section which embraces this principle, it was nevertheless one of the grounds of a vehement invective against the Administration in an anonymous

and his support was requested. It was incorporated in the act then passed, and had been repeatedly re-enacted. But was the objection seriously entertained? Had not the mover of it admitted, that it would be removed by the proposed amendment, with a single alteration; and yet had he not moved to expunge the section which embraced the amendment, thus to prevent its being made? He had declared, that the creation of a Naval armament would involve us in a war; that armament had been authorized, and now he scoffs at the apprehension of war!

The amendment was inserted by a majority of three votes. Gallatin then moved to limit the army to five thousand men. His motion was rejected, and the section passed authorizing a provisional army of ten thousand. The act contained a clause which empowered the President to accept the services of volunteers, to be employed during a period of two years,—to be armed and equipped at their own expense, he commissioning the officers. The effect of this act in calling forth the patriotic feelings of the people was deprecated. It was much opposed. The power to appoint the officers was pronounced an invasion of the rights of the Militia—and what were these but volunteer militia? The Constitution recognized no such force. It was a standing army of the worst kind.

The inconsistency of these opposite objections was the subject of much comment. "You object," it was said, "to enlistments, because they involve the expense and the dangers of a standing army.—We propose volunteers to be equipped by themselves, you brand them as formidable associations of wealthy individuals. They will be formidable, we acknowledge, formidable to whom? To

publication written by himself, entitled "Political Observations;"—that they had proposed to surrender to the Executive, power, "which the Constitution has most jealously appropriated to the Legislature." P. 12.

the invaders of our country,—to the daring infractors of the laws.—The act finally passed by a majority of eleven votes.*

In the concluding number of the "Stand," Hamilton, it is seen, advised "that *Congress* should permit the merchant vessels not only to arm themselves, but to sink or capture their assailants; and that the vessels of war should be *authorized* to cruise on the coast—to serve as convoys;—to sink or capture assailants, and bring in privateers hovering within twenty miles of the coast." The President, withdrawing his restriction, had left to the merchant vessels the option of arming themselves. The question arose in the Cabinet, whether he had a discretionary power as to the employment of the Navy, under the act creating a Naval armament.

The Secretary at War applied to Hamilton for his opinion. He answered:

"Not having seen the law which provides the *Naval armament*, I cannot tell whether it gives any new power to the President, that is, any power whatever with regard to the employment of the ships. If not, and he is left on the foot of the Constitution, as I understand to be the case, I am not ready to say, that he has any other power, than merely to employ the ships as convoys, with authority to *repel* force by force, (but not to capture,) and to repress hostilities within our waters, including a marine league from our coasts.

"Any thing beyond this must fall under the idea of reprisals, and requires the sanction of that department which is to declare or make war. In so delicate a case, in one which involves so important a consequence as that of war, my opinion is, that no doubtful authority ought to be exercised by the President; but that, as different opinions about his power have been expressed in the House of Representatives, and no special power has been given by the law, it will be expedient

* March 3, 1803. A law was approved by Jefferson, authorizing him to accept volunteers; and at the Executive instance, February 24, 1807, 30,000 volunteers were to be received.

for him, and his duty, and the true policy of the conjuncture, to come forward by a message to the two Houses of Congress, declaring that, '*so far, and no farther*,' he feels himself *confident* of his authority to go in the employment of the naval force; that, as in his opinion, the depredations on our trade demand a more extensive protection, he has thought it his duty to bring the subject under the review of Congress by a communication of his opinion of his own powers, having no desire to exceed the constitutional limits.

"This course will remove all clouds as to what the President will do, will gain him credit for frankness, and an unwillingness to chicane the Constitution, and will return upon Congress the question in a shape which cannot be eluded. I presume you will have heard, before this reaches you, that a French privateer has made captures at the mouth of our harbor. This is too much humiliation after all that has passed. Our merchants are very indignant. Our Government is very prostrate in the eyes of every man of energy."

As soon as this letter was received, a bill to carry the proposed measures for the protection of commerce was introduced into the Senate, and resolutions to the same effect were brought forward in the House. The preamble recited the spoliations of France as the motive to the measure. It was proposed to expunge it, and to postpone the bill until a total failure of the negotiation was ascertained. The Senate enacted it without delay. In the House, strenuous efforts were made to defeat it. It was declared to be tantamount to a declaration of war. The mover replied, that the reprisals which it authorized were commensurate only with the injuries received; and were not even a justifiable cause for the rupture of a pending negotiation. It was necessary, because France did not desire to drive the United States to extremities, but wished by any means to protract the present state of suspense, and avert a decision which must necessarily result from such a rupture. Our forbearance encouraged the continuance of her depredations. The bill passed, but so

modified, as to limit the exertion of this power of partial reprisals to the vessels of war, and against armed vessels hovering on the coast.

While thus the pretenders to a superior love of liberty were combining to expose the American trade, defenceless on the ocean; and were advising patience and submission, until France should have completed her conquests; Denmark and Sweden had resolved to arm for the protection of their commerce, and were remonstrating with Prussia against her decrees affecting the rights of neutrals.

CHAPTER CXLII.

ANOTHER month elapsed, and another communication was received from Paris. It mentioned a new demand by the envoys of a reply to their memorial; new requisitions of money; the disclosure to France of the prohibition in their instructions to promise a loan.

Soon after the departure of Kosciusko, Volney, whose intimacy with Jefferson has been mentioned, and who was regarded by the Cabinet as a spy of the Directory, alarmed by the proposed alien act, left the United States, as Jefferson remarked, "most thoroughly impressed with the importance of preventing war." He was the bearer of a letter from him to Kosciusko.*

The effect of the despatches of the Envoys on the national mind was increasing. The emergency was great. The preparations for war were decisive of the intentions of the Administration; and, recent as had been his secret missions, one more attempt was resolved upon by Jefferson to open to France all the dangers which menaced the cause of her partisans. The person selected to perform this office was a citizen of Pennsylvania, of the name of

* Jefferson to Madison, May 3, 1798. Among those who would sail "I believe will be Volney, who has in truth been the principal object aimed at by the law" (the alien act.) "It is said, Hamilton declines coming to the Senate."

Logan, whose mind had been infected with the new theories of France. His ardor and his intimacy with Bache* recommended him to the confidence of the leaders of the opposition as a convenient tool. As has been seen, he was one of the persons selected as the medium of Monroe's anonymous communications from Paris to the American press. This vain political zealot, flattered with this promised importance, lent himself to the intrigue; and after conferences with Genet and Rowan,† sailed secretly from the United States immediately after the promulgation of these despatches, provided with recommendations from Jefferson and from Chief Justice McKean.

He arrived at Hamburg, whence, after an interview with La Fayette, he proceeded to Paris. There he was in full consultation with Thomas Paine, who had become the Editor of a press devoted to the French Government, and with Kosciusko. Repeated conferences were held by him with Talleyrand, and he received marked attentions from all the members of the French Directory, being publicly spoken of at Paris as an agent of the Vice President of the United States.‡ While there, he addressed a memorial to Talleyrand. In this memorial, he declared himself a friend of the principles of the French Revolution, and represented himself as speaking in behalf of the friends of liberty in America. "They," he said, "imputed the depredations of France, not to the Government, but to its agents—they neither blame one Government nor

* Of the "Aurora," who passed some time at the residence of Jefferson.

† A. H. Rowan, an Irish refugee.

‡ Logan's arrival is thus alluded to in the "Surveillant" of August 30, 1798. Paris. "The new American Envoy, come to Paris in the name of the *patriot party* of the United States. It is he who has obtained the raising of the embargo in favor of the greater part of the ships of his nation." For a contradiction of this latter statement, see Ames i. 251, note.

the other. They would baffle the intrigues of the enemies of France and America." He remarked, that the American magistrates once chosen, were the organs of the people, notwithstanding their administration may be attended with errors, and even faults. If France provoked a rupture, every American will rally round the Government. "I wish, citizen Minister," he added, (and here I know that I convey the wishes of all who deprecate a separation from France, and particularly that great friend to liberty, so well known in this country, Mr. Jefferson) to impress on the minds of the Government the truth of this paragraph." He urged them not to count on a party in America, but, "by a great and magnanimous conduct, to draw back its wandering affections, and leave the true American character to blaze forth in the *approaching elections!*" He pressed them to release the seamen—to raise the embargo, and to send a minister to America, with liberal instructions. If such a mission was inadmissible, he proposed that an official declaration should be given of their readiness to open a conference at the Hague.*

* Soon after the publication of this letter, an animated comment upon it was published, entitled "Jefferson's Envoy." In this comment, the consequences of such a procedure are thus adverted to: "The Constitution has vested in the President alone the management of our exterior relations. To him belongs the right of appointing public ministers, of forming treaties, and of expressing our national sentiments. The Vice President, considered as such, possesses no other powers than those which are attached to the head of a legislative body. The President has entered into a negotiation with France, as the legal representative of the whole nation. Mr. Jefferson has entered into another, as the representative of a profligate faction. Let him not attempt to defend himself by saying that his objects coincided with those of the Administration, for, if he is authorized unsolicited, without the knowledge, and as he well knew, against the inclination of the President, thus kindly to further the completion of his wishes in this instance, it would be equally proper for him, on another occasion, to impede and obstruct them. If *he is compe-*

Further advices were received from Paris. They left little hope that France would accede to the just demands that were made. The requisitions for money were continued, no disposition to repeal the late decree against neutral commerce was manifested. The irritation of the people increased, and with it increased energy in Congress. A bill, which Hamilton had advised, suspending all commercial intercourse with France and her dependencies, was brought forward and passed, so altered as to declare the treaties with France void, and the United States exonerated from their stipulations, and from those of the consular convention. A proposal to authorize the issue of letters of marque and reprisal was rejected.

Hamilton, it is seen, had dissuaded an alliance with Great Britain, and suggested, that powers should be lodged with her minister adapted to probable exigencies; and that it would be good policy on her part to send to this country a dozen frigates to pursue the directions of this Government. Patriotic citizens had raised subscriptions in the large seaports for building armed vessels to be presented to the nation. A law was passed to enable the administration to avail itself of these aids; another law was enacted to carry into effect his suggestion—that merchant vessels should be authorized to defend themselves, and to subdue and capture their assailants.

These measures were deemed insufficient to secure the independence of this country. An evil which had long exerted, and still exerts a formidable influence, was to be checked. It was the too easy admission of foreigners to political rights. The early opinions of Jefferson, as

tent to send an agent to France for the purpose of securing peace, he is no less empowered to send one to England in order to create war."

will be hereafter seen, would have wholly excluded naturalization. Although similar views were entertained by others, the general sentiment merely asked an extension of the term of probation. The naturalization act of ninety-five prescribed, that the alien should have declared his intention to become a citizen, three years; and required a residence in the United States of five, and within the State where the application was made, of one year, before his being admitted a citizen. A supplementary act was now passed. By it, a declaration of the intention must have been made five years; and a previous residence within the United States of fourteen years, and within the State of five years, were prerequisites to admission. Clauses were added, having reference to the existing state of the country, which excluded alien enemies, at the time they were such, from becoming citizens; and required all white aliens to be reported and registered, under a penalty for disobedience. During the debate on this bill in the House of Representatives, one proposition was made to exclude all naturalization—another, in concurrence with Jay, that no alien born, not then a citizen of the United States, should be capable of holding any civil office of honor or profit. A resolution was also offered in the Senate, for an amendment of the Constitution, so as to render ineligible to the offices of President, or Vice President, or to seats in either branch of Congress, any other than native citizens or residents in the United States at the time of the Declaration of Independence, and from that period until the time of the election.

Hamilton's view of this question differed from that of his party. He said, that "he would not contend for a total prohibition of the right of citizenship to strangers,

nor even for the very long * residence, which this act rendered a prerequisite to naturalization, and which of itself went far towards a denial of that privilege. A residence of not less than five years, he thought, ought to be required, but that rights peculiar to the conducting of business and the acquisition of property, might be at once conferred, upon proof of the intention to become citizens, postponing all political privileges to the ultimate term." On the eighteenth of June, the day on which this bill became a law, the President transmitted to Congress another despatch from the envoys, covering a letter from Talleyrand, and their reply. Three days after, he announced the arrival of Marshall, who, after not a few indignities, had obtained a passport, Pinckney being permitted, though with hesitations, to pass the winter, with a daughter in ill health, in the South of France. The attentions paid to Marshall marked the sensibility of the nation to his character and services. Public demonstrations of the highest respect were shown to him, both at New York and Philadelphia, . . . the people vying with each other in exhibitions of their determination to sustain the Government in the elevated stand which it had taken. The bells rang as he journeyed on, until late in the night; and immense crowds cheered him in his triumphal progress.†

* Jefferson to Madison, June 14, 1798. "The new Citizen or Naturalization bill passed the Senate. It requires 14 years' residence to make a citizen. It has friends in *both* parties."

† Jefferson to Madison, Philadelphia, June 21, 1798. "Marshall was received here with the utmost eclat. The Secretary of State and many carriages, with all the city cavalry, went to Frankfort to meet him; and on his arrival here in the evening, the bells rang till late in the night, and immense crowds were collected to see and make part of the show, which was circuitously paraded through the streets before he was set down at the City tavern. All this was to secure him to their views—that he might say nothing which would expose the game they have been playing."

The answer of Talleyrand dwelt upon the inexecution of the treaties with France; and urged that American tribunals had, since the commencement of the war, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States. By reference to the correspondence of the government, it was shown, that such pretensions had never been made, but had been expressly disclaimed. He objected, that the ships of the enemy had been permitted to come into their ports after captures made by them, from French citizens. It was shown, that, while British ships had not been denied the rights of hospitality, shelter had been refused to the prizes made from France or to English ships of war, accompanying those prizes. He instanced the arrest of a corvette, though it was proved to have captured an American vessel under a French commission; and a refusal to provide means to execute the Consular Convention,—an allegation without any foundation. He also insisted, that deception had been practised as to the negotiation with England, and the character of that treaty, —calculated to turn the neutrality of the United States to the advantage of England, and disadvantage of France. The first imputation was repelled and disproved. As to the injurious nature of the treaty, nothing was specific, and a general denial of the assertion was given. The arrêt, authorizing captures for want of a role d'equipage, was defended because founded on the treaty with England. It was answered, that it greatly transcended that treaty, and as to the role d'equipage, it had no relation to it. To these charges were added complaints, that the United States had not permitted the sale, in their ports, of prizes made by French cruisers, and of invectives in the gazettes against the French Government, and of the speech of the President in May of the previous year.

These complaints were answered by stating, that as to the sale of prizes, France had no such right; that it was merely the refusal of a favor which to grant would have been inconsistent with neutrality; that the Press was free; and that the Speech of the President was a consequence of the declaration of Barras to Monroe,—of the continued depredations, and of the refusal to hear Pinckney.

In confirmation of the alleged unfriendliness of the United States, Talleyrand referred to the instructions to the envoys based on the idea of continuing to fulfil the treaty with England; to the appointment of persons in the mission of dispositions unfavorable to France, a policy which he believed "the American nation sees with regret, and the consequences of which it regards with sorrow." To smooth the way of discussions, he announced, that the Directory is disposed to treat "with that one of the three, whose opinions, presumed to be more impartial, promise in the course of the explanations, more of the reciprocal confidence which is indispensable."

These imputations on the faith of their country were met by the envoys in a dignified tone; and, as to the proposition to treat with Gerry alone, it was remarked, that it was not accompanied with any assurances of receding from those demands of money heretofore presented, as the sole considerations on which the cessation of hostilities upon American commerce could be obtained, to which they had not the powers to accede, with which it would be extremely difficult to comply, and that a compliance would violate the faith pledged for the observance of neutrality, and involve their country in a disastrous war, wherewith they had no concern; that no answer had been given as to the claimed compensation for captures, contrary to the laws of nations and treaties. As to

the proposed negotiation with one of the envoys, he was further informed, that no one of them was authorized to assume a negotiation, intrusted to the whole; nor can any two of them withdraw from the task committed to them by the Government, while there was a possibility of performing it.

Gerry remained at Paris. He wrote, that he was informed the Directory would not consent to his leaving France, and to bring on an immediate rupture by so doing without their consent, he thought would be unwarrantable; that he had received a letter from Talleyrand, whose object was to resume reciprocal communications, and again to discuss the loan; and had replied, that the proposal, under an injunction of secrecy, to treat separately, could not be acceded to, and that all he could do was to confer informally and unaccredited.

With these despatches were also published the last instructions to the envoys. They were directed, if in treaty with duly authorized persons, to remain and expedite its conclusion; and, as suspense was ruinous, if a design were evinced to procrastinate, to demand their passports and return. If they had not been received, and if they had, and were not in negotiation with persons duly authorized, also to return; and "in no event was a treaty to be purchased with money by loan or otherwise." Referring to this communication, Jefferson observed,* "that Gerry stayed without explaining his reason to his colleagues. He wrote, however, to the President by Marshall, who knew nothing of the contents of his letter. So there must have been a previous understanding between Talleyrand and Gerry."

A few days after,† acting in accordance with the

* Jefferson to Madison. Jefferson's Works, iii. 396. † July 3.

wishes of the Directory, a resolution was moved by Edward Livingston, that an address should be presented to the President, requesting him to instruct the Envoy Extraordinary, who remained at Paris, to proceed in the negotiation *offered* to be opened with him, and to conclude such treaty as he may be enabled to negotiate, not inconsistent with the last instructions to the envoys. As a comment on this resolution, an amendment was proposed by a Federalist, that "in case this Envoy shall have been ordered out of the French Republic, or taken into custody, then with such other person or persons as the French Directory may select." Though supported by Baldwin, Gallatin, Macon and Nicholas, this extraordinary resolution was rejected by a majority of one-fourth of the Representatives. Nor was the effect which it might have been hoped it would produce on the national mind, attained.

The persevering demand of money, and the designation by a foreign government of the person with whom they would treat, without any other pretext than that two of the Envoys were supposed to entertain sentiments unfavorable to the policy of that government, and for no other cause than that they defended the rights of their country, gave new impulses to the public feelings. Patriotic addresses poured in, and were replied to by the President in language * less measured than was becoming, but tending to inspire the nation with a just sense of the injuries it had suffered, and to dispose it to a firm and

* A meeting of the young men of New York was held on the 5th of May, 1798. Their deputation proceeded to Philadelphia, and presented an address to the President on the 26th of that month. They dined with the President, and, at the conclusion of the meal, Mrs. Adams presented to each of the committee a *Black Cockade*. This cockade became the distinguishing emblem of many of the supporters of the Administration.

magnanimous resistance. The indignation of the people was heightened by contemporary occurrences showing the insidious arts of France, and her reliance upon her American partisans. In order to prepossess the mind of the nation, and hoping that it would reach the United States, previous to the despatches of the envoys, the reply of Talleyrand was transmitted to Bache on the day of its date. The length of the voyage delayed its arrival until after these documents were received by the government. Letters were sent by the same conveyance to Monroe, to Genet, and to Bache, under the seal of the Minister of Exterior Relations. The object of these letters would naturally be to induce the President to instruct the envoy, "who remained at Paris," to proceed to the conclusion of a treaty on the terms of France—that they led to the resolution of Livingston there is no evidence, but the opinion of Jefferson that "there must have been a previous understanding between Talleyrand and Gerry," would have prompted him to suggest such a procedure.

The President had declared to Congress—"I will never send another minister to France without assurances that he will be received, respected, and honored, as the Representative of a great, free, powerful, and independent nation." No more effectual expedient could have been advised to humble him than the passage of such a resolution. None could have exhibited a more servile compliance with the dictation of France. A private letter was at this time received by Hamilton, stating, that previous to the separation of the envoys, a violent schism, attended with mutual reproaches, had occurred; and that the opinion was entertained, that great pains would be taken to persuade Gerry to consent to a public reception, in order to deceive and mock his country with an insidi-

ous negotiation.* This letter also foreboding war, the measures of defence were hastened.

It was thought necessary to confer on the Executive the power of removing aliens. Among the many and great obstacles which the Federalists had to contend with, in establishing the supremacy of the laws, and in preserving neutrality, none was greater than the influence exerted by successive hordes of malcontent foreigners. The convulsions of France had cast upon the shores of America many of her desperate subjects. They were computed, though probably exaggerated, to number at this time thirty thousand men, all of whom partook of the military temper of their nation, and the greater part had served. These, when they fled the guillotine, still adhered to their country in all its changes. Her designs of universal empire appealed to the vanity of every member of this great nation. To promote its interests, by rendering the United States subsidiary; to conquer the mind of this country by conforming American ideas to French theories, were objects sufficient to engage all the efforts of these restless aliens, who gladly arrayed themselves under its political agents in their mission to apostolize this western world.

The British cabinet had resolved to stay the plague of revolutionary principles; and English Jacobins, more dangerous than those of the Continent, escaping the gibbet, were mingling with the American people, to whom similarity of language and habits gave them ready access.

The oppressed and infuriated Irish also sought an asylum here from their poverty and their wrongs. Long suffering from misrule, this impassioned people were led

* R. King to Hamilton, May 12, 1798.

to regard established government as an abuse. Craftily prejudiced with the belief, that neutrality was subservience to England, and that Federalism meant more than a love of the Constitution, of law and liberty, they were soon marshalled in the Democratic ranks, of which they became, and have continued a most efficient part. Never losing their identity, they were easily led in masses; and, flattered by the immediate consequence they obtained, they followed implicitly the behests of that party, almost believing that freedom was an absolution from law. All these emigrants were the ardent admirers of Jefferson, as the head of the opposition; the French because of his devotion to France; the English and the Irish because of his hatred to England.

The great mass of the Irish were prompted by misguided prejudices. Warm in their affections, faithful to their trusts, their women constituting a part of many a household, holding its children in their arms, and watching over their infancy; their men, building the cities, and the public works, and ranging themselves among the first in battle for American rights, to them the debt of gratitude is large. But among them were then political offenders, who, abandoning their fealty to England, placed their affections on France, and became her active partisans.

The Democratic Societies organized by Genet, had been denounced by Washington, and were suppressed. An association was now proposed, and entered into, better suited to the bolder character of these recent emigrants. Immediately after Napper Tandy's arrival at Paris from New York, was announced, "The American Society of United Irishmen" was founded. It proposed to embody all the Irish in the United States, whom the lowest computation estimated at fifty thousand, provided

they "were such and such only as had suffered in the cause of freedom, or who by their zeal for the rights of mankind had rendered themselves distinguished and worthy of trust." The Constitution of this combination declared, "that the test of this Society, the intention of its institution, other than as a social body attached to Freedom, should be secret and inviolable." This test oath, beside the emancipation of Ireland, pledged the efforts of the associates for the attainment of liberty and equality to mankind in *whatever nation they resided*, and that they never would divulge any of its secrets. The admission of members was guarded, further to indicate the nature of the association; and an enlarged organization was formed, so as to extend its ramifications to the most remote recesses of the Union. Under a General executive committee were STATE committees. These controlled the Sections, to whom were subordinate sub-sections, "consisting only of eight men each, all living near one another, one of whom was to *warn them in cases of urgency.*"

That it was formed for other purposes than the emancipation of Ireland, is shown by its Constitution. That it contemplated immediate measures within the United States, is proved by its preamble, which declared, at a moment ominous to this country,—"There is not now time to argue and complain. This is the time to act. To act with energy—we must act with union—Irishmen are united at home—we will not be disunited abroad." A combination so formed—bound together by so close a bond—contemplating objects it dared not avow;—bound by a secret oath—organized with military gradation and precision; pledged to act with energy and union; to act upon instant warning—what was this monster other than a conspiracy against the government?

Hamilton well understood its purposes when he indicated to the cabinet the danger of "an internal invasion." The perils it menaced were among the reasons avowed in Congress for authorizing the organization of volunteer corps. Its existence was the leading, all-sufficient motive, for the enactment of a law for the removal of aliens "judged dangerous to the peace and safety of the United States, or concerned in treasonable or secret machinations against the Government." This was the language of the "Act concerning aliens," which empowered the President to order all such aliens to leave this country, under the penalty of imprisonment. It was passed after an opposition, the obstinacy of which showed the importance of the law, and was limited to two years' duration. Another act was passed relating to "alien enemies." *

The only allusion to these laws by Hamilton is contained in a letter of the seventh of June to Pickering, in which, adverting to rumors of misconduct on the part of the commander of a British frigate, he wrote:

"What do the British mean? What are these stories of the Thetis, etc., etc.? In my opinion, our country is now to act in every direction with spirit. Will it not be well to order one of our frigates to Charleston to protect effectually our commerce in that quarter, and if necessary, control the Thetis? This conduct will unite and animate." He then observed, "If an Alien bill passes, I should like to know what policy in execution is likely to govern the *Executive*. My opinion is, while the mass ought to be obliged to leave the country, the provisions of our treaties in favor of merchants ought to be observed; and there ought to be *guarded* exceptions of characters whose situations would expose them too much, if sent away; and whose demeanor among us has been unexceptionable. There are a few such. Let us not be cruel

* Jefferson to Madison, May 24, 1798. "Some of the features of the Alien bill have been moderated, that of the House was recommitted." The provisional army was carried "by a majority of eleven." He urges him to come back to the House of Representatives.

or violent." Listening to these suggestions, the original bill was abandoned, and a new bill passed, to which Gallatin declared, "as now modelled, he had no objections."

Apprehensive of the penalties of these laws, a vessel sailed for France filled with suspected Frenchmen, among whom were VOLNEY, as previously stated, and the emissary COLLOT.

In order to sustain the government, it was also thought necessary to endeavor to check the licentiousness of the press. The calumnies by which the confidence of the people had been undermined, and their suspicions excited, had become so frequent and so gross, as to induce an opinion, not only that the interposition of the existing laws was necessary, but that farther legislation was indispensable. To this systematic defamation, Washington declared, "All our discontents were to be traced. From it our embarrassments proceed." These defamations are seen to have been commenced under the auspices of Jefferson. After the discontinuance of the "NATIONAL GAZETTE," the "AURORA" became his organ. It evinced not only a servile submission to his views, but a slavish obedience to France. From its columns were to be descried the policy of that government. In it was to be found a justification of all its excesses. The calumnies which originated there were propagated in the subordinate gazettes. Upon the more dense communities of the Eastern and Middle States, little impression had been made. Their influence was chiefly seen along the interior frontier, and in the Southern sections of the Union, where, amid sparse settlements, without facilities of intercourse or frequent interchanges of opinion, a rural population had grown up—a prey to all the false alarms and gross perversions by which artifice abuses ignorance.

When the strife of parties increased, the conduct of

these presses was confided to alien renegades, who imparted to them a ferocity here previously unknown. One —an expatriated Scot—a fugitive from the pillory—Callender; another, a proscribed Irishman, employed to infuriate the passions of the mob, both at the seat of government—a third, instructed in all the arts of detraction, planted at New York, under the auspices of Burr.*

These incendiary publications, aided by the partisans of France, had produced one insurrection. Fears were entertained that another was not remote.

The abuse of the President was unrestrained. In reply to an Address, he prompted the course which was pursued. "The delusions and misrepresentations which have misled so many citizens *must*," he declared, "be *discountenanced by authority*, as well as by the citizens at large." † Thus stimulated, a law was passed, commonly known as the "Sedition Act."

Hamilton was aware of the danger, and doubted the policy of penal statutes, affecting the press. On his first information of this contemplated law, he wrote instantly to Wolcott, deprecating its enactment.

"I have this moment seen a bill brought into the Senate, entitled 'A Bill to define more particularly the crime of Treason, etc.' There are provisions in this bill, which, according to a cursory view, appear to me *highly exceptionable*, and such as, more than any thing else, *may endanger civil war*. I have not time to point out my objections by this post; but I will do it to-morrow. I hope, sincerely, the thing

* Referring to the parting address of Barras to Monroe, this press declared "Mr. Adams may yet hear of a speech from Barras that shall make both him and Congress tremble;" and exulting at the prospect of an invasion, the consequences were indicated, "*if Jourdan should disembark from Newcastle!*" By Philip Freneau, previously editor of the National Gazette. See Gazette of the United States, April 22.

† Reply of the President to an Address from Newark, quoted in Jefferson to Madison—May 3, 1798—from Gazette of U. S. of May 2, 1798.

may not be hurried through. LET US NOT ESTABLISH A TYRANNY. Energy is a very different thing from violence. If we make no false step, we shall be essentially united; but if we push things to an extreme, we shall then give to faction body and solidity." *

The most objectionable parts of this bill were expunged, other parts were essentially modified,† and the law was to expire with the expiration of the next Congress. Two features of this bill are to be noticed. It limited the punishments to be inflicted, which before were claimed to be discretionary with the courts, and established a great security to the liberty of the press by permitting in suits for seditious libels the truth of the charge to be given in evidence. This important provision was proposed by Bayard, and was a great advance on the part of the Federalists towards the general establishment of the doctrine and law of libel, which, it will appear, emanated from Hamilton.

The preparations for defence required a large increase of resources. The Treasury report showed a surplus, exceeding a million of dollars, applicable to the discharge of the debt; but which, without violating public faith, might be appropriated to the defence of the country. The previous expenses incurred for that purpose, the probability of increased charges, and of diminished receipts from the customs, demanded a further revenue of two millions. This sum it was proposed to raise by a direct tax on lands, houses and slaves, to be apportioned among the States by the Constitutional rule. Wolcott,

* Hamilton's Works, vi. 307. June 29, 1798.

† Wolcott wrote to King: "The Constitution of Virginia contains a declaration equivalent to that in the Constitution of the United States in favor of the liberty of the press, and the sedition law is merely a copy from a statute in Virginia, in October, 1774." Gibbs, ii. 78.

in his communication to Congress as to the House tax, adhered to the plan he had previously proposed; delicacy to him having forbidden the introduction of that of Hamilton. He had recommended the exemption of certain houses, and the distribution of all others into three classes with reference to their value, to be taxed uniformly in each class at specific prescribed rates. The exemption extending further than he had contemplated, he enlarged his classification so as to embrace all houses with their lots exceeding in value eighty dollars, which formed the first of nine classes. The estimated product of this tax being less than the requisite amount, he proposed a small tax on each slave, the deficiency to be supplied by an ad valorem tax on lands.

A vehement opposition was made to the distinction between houses and other real estate. It was objected, that a separate valuation must be made of the house and land; and that such valuation must be arbitrary. Gallatin suggested a valuation of land as practised in several States, estimating the improvements. The classification, he thought, would render it impossible to correct and adjust an assessment. Each class would embrace houses of many different values which would pay the same tax. The uncertainty of such a valuation was admitted; but it was believed by the advocates of the bill, that such classification would diminish that uncertainty, and was preferable to a separate valuation of each house, which would produce discontent. A tax on houses they approved, because the burthen would be laid according to the means of the occupant, and throwing the weight of the tax upon the towns would relieve the more remote population. An amendatory act was passed, providing a mode of valuation by Commissioners, reviewing the estimates of the

proprietors. The direct tax was subsequently apportioned among the States, to be assessed by a percentage according to the classes of the houses, and to be collected by the collectors of the internal revenue. Fifty cents was charged on each slave, and the residue upon lands according to the valuations. An examination of this system does not leave a doubt, that Hamilton's plan would have been more equal—more certain—more productive—less onerous.

The loans advised by Hamilton were authorized by two acts. One of five millions, payable at the expiration of fifteen years. Another of two millions upon the credit, and in anticipation of the direct tax, at an interest not to exceed six per cent., to be reimbursed at pleasure.

The opposition to an increase of the army had been strenuously continued. The friends of the administration, in vain, for a long time, urged the imprudence of delay. But near the end of the session, on the twenty-eighth of May, a bill for that purpose passed. The President was "authorized, in the event of a declaration of war against the United States, or of actual invasion of their territory, by a foreign power, or of imminent danger of such invasion, discovered in his opinion to exist before the next session of Congress, to cause to be enlisted and to call into actual service a number of troops not exceeding ten thousand, to be enlisted for a term not exceeding three years."

He was also empowered to organize these troops into corps of artillery, eavalry, and infantry, with a suitable number of Major-Generals—an Inspector-General with the rank of Major-General—a Quartermaster-General, and Paymaster-General—Adjutant-General—and a Commander of the Army, with the rank of LIEUTENANT-GEN-

ERAL.* The officers to be appointed but not to be paid until on duty. The acceptance of companies of volunteers into the service of the United States was likewise sanctioned.

* Tazewell to Madison, July 12, 1798. "It is yet uncertain whether Washington will accept the command of the army. Hamilton has been here eight or ten days, and it is believed he will have the efficient command."

CHAPTER CXLIII.

Although the force provided by Congress was less than Hamilton deemed necessary, yet these incipient measures, he felt assured, would vindicate the dignity of the American name, and form the groundwork of a system of defence, which might be sufficiently enlarged to secure the country from invasion. In the infant Navy, he saw the germ of a National Marine, which the interests, the habits, and the pride of the people would foster —a "Federal Navy" that would render the United States "the arbiter of Europe in America." *

The heart of the nation was warmed;—its passions were directed to the right point, and he breathed more freely in the belief that the Government would be sustained in every effort the public safety or honor might demand. How the Executive would fulfil the large confidence reposed in him by Congress was the problem now to be solved.

The Cabinet was determined to adhere to the neutral policy of the previous administration, to precipitate nothing, to keep open all the chances of peace, but not to permit the country to be humbled. In this sentiment there was entire concurrence among its members, but a

* Federalist, No. xi., by Hamilton.

difference of opinion existed as to measures. Pickering and McHenry believed the national resources adequate to every emergency. Wolcott, more habituated to cautious detail, hesitated on this point. But strong as was the determination of the ministers, they had to contend with a stronger, but a fitful will—the will of Adams.

The circumstances under which this eccentric, wayward man assumed the government promised him little repose. His own character gave him less. That he could have doubted whether the great interests of this yet infant country were to be promoted by peace—that peace was not only important to the temporary happiness of the people, but to the safe development of their political institutions, and thus to their permanent welfare, can with difficulty be supposed. Yet, amid the controversies which had arisen with England, he was known to have indulged feelings, and heard to hazard opinions, which, if acted upon, must have resulted in war. Jefferson never forgot, Adams long remembered their unsuccessful mission to London. Had not France offered to the President an object of wrath, it might have been difficult to have restrained him from a conflict with her rival.

That Washington instituted the mission of Pinckney to France did not commend it to Adams. He did not value the still continuing influence of that venerated person as a support, but rather regarded it as a derogation from his own power. But these personal feelings gave place to resentment at the indignity offered to the country in the rejection of that mission. He hesitated, as has been seen, whether a new mission could be instituted without national debasement, and only surrendered this doubt to most cogent considerations.

The rejection of these envoys and the demand of tribute roused all his excitability. His impulsive temper

stimulated the people, and his answers to their Addresses left not a moment for their justly roused passions to subside.

"I thank you," he said, "for your declaration of unshaken confidence in the government, and for your advice, to be prepared with firmness to repel all attempts that are made against the peace, government, and dignity of the United States, but I know of no further measures that can be pursued to produce an amicable adjustment of differences with the French Republic."—"The delusions and misrepresentations which have misled so many citizens are very serious evils, and must be discountenanced by *authority*, as well as by the citizens at large, or they will soon produce all kinds of calamities in this country." "With you," he replied to another, "I clearly agree, that *nothing further can be attempted*, consistently with the maxims that constitute the basis of our National Sovereignty."—"Your approbation of the conduct of Government, and confidence in its authorities, are very acceptable. If the choice of the people will not defend their rights—who will?"—"To me there appears no mean of averting a storm, and, in my opinion, we must all be ready to dedicate ourselves to fatigues and dangers."—"In my opinion, as well as yours, there is no alternative between war and submission to the Executive of France."—"I am weary of enumerating insults and injuries."—"I believe with you that very few will be found so unworthy of the blessings they enjoy, as to espouse the unjust and arrogant pretensions of a foreign nation, yet we have found that a few venal presses and unprincipled mercenaries have been able to raise loud clamors, produce much discontent, and threaten serious calamities."—"Your confidence that I will not surrender the rights of the nation, shall not be betrayed. If the nation were capable of such a surrender, which it is not, some other hand must affix the signature to the ignominious deed."

The tone of these replies was high, but they were not all such as Hamilton could approve. In reference to one of them, he wrote to Wolcott:

"The answer from the President contains in the close a very indifferent passage. The sentiment is intemperate and revolutionary. It is not for us, particularly for the Government, to breathe an irregular or violent spirit. Hitherto, I have much liked the President's

answers, as, in the main, within proper bounds; and calculated to animate and raise the public mind. But there are limits which must not be passed; and from my knowledge of the ardor of the President's mind, and this specimen of the effects of that ardor, I begin to be apprehensive that he may run into indiscretion. This will do harm to the *government*, to the cause, and to himself. Some hint must be given, for we must commit no *mistakes*."

Adams held the trumpet of the nation. He urged them loudly to meet the emergency; but as to the great essential measures of defence, he had little steadfastness of purpose. The action of the Cabinet, and of Congress, is seen to have originated in Hamilton's suggestions.*

He remarked of him, that Adams "had no relative ideas." Hence all his movements were marked with precipitance or imbecility. The resolutions of the day were recalled by the doubts of the morrow—resumed, and again relinquished—prematurely urged, weakly abandoned. The maturest counsels were dashed by his imprudence, and his constitutional advisers were compelled to persuade—to entreat—to implore—to do all—but—confidently advise.

Amid such a scene, Hamilton felt the necessity of again calling before the people that BEING in whom their affections and experience placed the largest confidence. His friendship for his toil-worn friend was overcome by what he believed was due to the imperious circumstances of the country. On the nineteenth of May previous to

* "Such was the influence of Mr. Hamilton in Congress, that, *without any* recommendation from the President, they passed a bill to raise an army." Correspondence of Adams. Yet in his Speech of May 16, 1797, previously referred to, he says: "As our country is vulnerable in other interests besides those of its commerce, you will seriously deliberate, whether the means of general defence ought not to be increased by an addition to the regular artillery and cavalry, and by arrangements for *forming a provisional army*."

the passage of the Provisional army bill, he made the following appeal to WASHINGTON:

"My Dear Sir: At the present dangerous crisis of public affairs, I make no apology for troubling you with a political letter. Your impressions of our situation, I am persuaded, are not different from mine. There is certainly great probability that we may have to enter into a very serious struggle with France; and it is more and more evident, that the powerful faction which has for years opposed the Government is determined to go every length with France. I am sincere in declaring my full conviction, as the result of a long course of observation, that they are ready to *new model* our Constitution, under the *influence* or *coercion* of France; to form with her a perpetual alliance, *offensive* and defensive, and to give her a monopoly of our trade, by *peculiar* and *exclusive* privileges. This would be in substance, whatever it might be in name, to make this country a province of France. Neither do I doubt, that her standard, displayed in this country, would be directly or indirectly seconded by them, in pursuance of the project I have mentioned. It is painful and alarming to remark, that the opposition faction assumes so much a geographical complexion. As yet, from the South of Maryland, nothing has been heard, but accents of disapprobation of our Government, and approbation of, or apology for France. This is a most portentous symptom, and demands every human effort to change it.

"In such a state of public affairs, it is impossible not to look up to you, and to wish that your influence could in some proper mode be brought into direct action. Among the ideas which have passed through my mind for this purpose, I have asked myself, whether it might not be expedient for you to make a circuit through Virginia and North Carolina, under some pretence of health. This would call forth addresses, public dinners, &c., which would give you an opportunity of expressing sentiments in answers, toasts, &c., which would throw the weight of your character into the scale of the Government, and revive an enthusiasm for your person, that may be turned into the right channel.

"I am aware, that the step is delicate, and ought to be well considered before it is taken. I have even not settled my own opinion as to its propriety; but I have concluded to bring the general idea under your view, confident that your judgment will make a right choice, and

that you will take no step which is not well calculated. The conjuncture is extraordinary, and now, or very soon, will demand extraordinary measures.

"You ought also to be aware, my dear sir, that in the event of an open rupture with France, the public voice will again call you to command the armies of your country; and, though all who are attached to you will, from attachment, as well as public considerations, deplore an occasion which should once more tear you from that repose to which you have so good a *right*—yet it is the opinion of all those with whom I converse, that you will be compelled to make the sacrifice. *All your past labor may demand to give it efficacy*,—this further—this very great sacrifice. Adieu, my dear sir. Respectfully and affectionately yours."

Washington replied on the twenty-seventh of May:

"My Dear Sir: Yesterday brought me your letter of the nineteenth instant. You may be assured, that my mind is deeply impressed with the present situation of our public affairs, and not a little agitated by the outrageous conduct of France towards the United States, and at the inimical conduct of its partisans among ourselves, who aid and abet their measures. You may believe further, from assurances equally sincere, that if there was any thing in my power which could be done with consistency to avert, or lessen the danger of the crisis, it should be rendered with hand and heart.

"The expedient, however, which has been suggested by you, would not, in my opinion, answer the end which is proposed. The object of such a tour could not be veiled by the ostensible cover to be given to it; because it would not apply to the state of my health, which never was better; and as the measure would be susceptible of two interpretations, the enemies to it—always more active and industrious than friends—would endeavor, as much as in them lay, to turn it to their own advantage, by malicious insinuations; unless they should discover that the current against themselves was setting too strong, and of too serious a nature for them to stem; in which case, the journey would be unnecessary, and in either case the reception might not be such as you have supposed.

"But, my dear sir, dark as matters appear at present, and expedient as it is to be prepared at *all* points for the worst that can happen, (and no one is more disposed to this measure than I am,) I can-

not make up my mind *yet* for the expectation of *open war;* or in other words, for a formidable invasion by France. 'I cannot believe, although I think them capable of *any thing bad*, that they will attempt to do more than they have done;—that when they perceive the spirit and policy of this country rising into resistance, and that they have falsely calculated upon support from a *large part* of the *people* thereof to promote their views and influence in it, that they will desist *even from those practices*, unless unexpected events in Europe, or their possession of Louisiana and the Floridas, should induce them to continue the measure. And I believe further, that although the *leaders* of their party in this country will not change their sentiments, that they will be obliged, nevertheless, to change their plan, or the mode of carrying it on, from the effervescence which is appearing in all quarters, and the desertion of their followers, which must frown them into silence—at least for a while.

"If I did not view things in this light, my mind would be infinitely more disquieted than it is; for if a crisis should arrive, when a sense of duty, or a call from my country, should become so imperious as to leave me no choice, I should prepare for the relinquishment, and go with as much reluctance from my present peaceful abode, as I should do to the tombs of my ancestors.

"To say at this time, determinately, what I should do under such circumstances, might be improper, having once before departed from a similar resolution; but I may declare *to you*, that as there is no conviction in my breast that I could serve my country with more efficiency in the command of the armies it might levy, than many others, an expression of its wish that I should do so, must, somehow or other, be unequivocally known, to satisfy my mind, that, notwithstanding the respect in which I may be held on account of former services, that a preference might not be given to a man more in his prime. And it may well be supposed, too, that I *should like previously to know who would be my coadjutors, and whether you would be disposed to take an active part, if arms are to be resorted to.*"

A detailed statement follows of the progress of public sentiment in the Southern States favorable to the Administration. He adds:

"These disclosures, with what may yet be expected, will, I conceive, give a different impression of the sentiments of our people to the

Directory of France, than what they have been taught to believe; while it must serve to abash the partisans of it for their wicked and presumptive information.

"Your free communication on these political topics is so far from needing an apology, that I shall be much gratified and thankful to you for the continuation of them; and I would wish you to believe, that with great truth and sincerity, I am always your affectionate friend."

Hamilton answered on the second of June:

"The suggestion in my last was an indigested thought begotten by my anxiety. I have no doubt that your view of it is accurate and well-founded. It is a great satisfaction to me to ascertain what I had anticipated, in hope that you are not determined, in an *adequate emergency*, against affording once more your military services. There is no one but yourself that would unite the public confidence in such an emergency, independent of other considerations; and it is of the last importance that this confidence should be *full* and *complete*. As to the wish of the country, it is certain, that it will be *ardent* and *universal*. You intimate a desire to be informed what would be my part in such an event as to entering into military service. I have no scruple about opening myself to you on this point. If I am invited to a station in which the service I may render, may be proportioned to the sacrifice I am to make, I shall be willing to go into the army. If you command, the place in which I should hope to be most useful is that of Inspector General, with a command in the line. This I would accept. The public must judge for itself as to whom it will employ, but every individual must judge for himself as to the terms on which he will serve, and consequently must estimate, himself, his own pretensions. I have no knowledge of any arrangement contemplated, but I take it for granted the service of all the former officers worth having may be commanded, and that your choice would regulate the Executive. With decision and care in the selection, an excellent army may be formed.

"The view you give of the prospects in the South is very consoling. The public temper seems everywhere to be travelling to a right point. This promises security to the country in every event. I have the honor to remain, my dear sir, your faithful and affectionate servant."

A few days after,* he wrote to King:

"You will have observed with pleasure a spirit of patriotism kindling everywhere. And you will not be sorry to know, that it is my opinion, that there will shortly be national unanimity as far as that idea can ever exist. Many of the leaders of faction will persist, and take ultimately a station in the public estimation, like that of the tories of our Revolution.

"Our chief embarrassment now is, the want of energy among some of our friends, and our Councils taking too strong an infusion of those characters who cannot reform, and who, though a minority, are numerous enough, and artful enough, to perplex and relax. We do far less than we ought towards organizing and maturing, for the worst, the resources of the country. But I count that there is a progress of opinion which will probably shortly overcome this obstacle.

"How vexatious that at such a juncture there should be officers of Great Britain, who, actuated by a spirit of plunder, are doing the most violent things, calculated to check the proper amount of popular feeling, and to furnish weapons to the enemies of Government. Cambauld, at the Mole, is acting a part quite as bad as the Directory and their instruments. I have seen several of his condemnations. They are wanton beyond measure. It is not enough that his acts are disavowed, and a late and defective redress given through the channels of the regular courts. Justice and the policy of the crisis, demand that he be decisively punished and disgraced. I think it probable you will be instructed to require this. It would be happy, if the Government, where you are, would anticipate.

"It is unlucky, too, that Cochrane, of the Thetis, appears to be doing some ill things. The Southern papers announce a number of captures lately made by him, and, in some instances, if they say true, on very frivolous pretexts. The character of that gentleman would lead me to hope that there is some misrepresentation, but the present appearances against him are strong. There seems a fatality in all this. It cannot be doubted, that the British Cabinet must at this time desire to conciliate this country. It is to be hoped, they will not want vigor to do it with effect by punishing those who contravene the object."

* June 6, 1798.

King informed Hamilton,

"that the appointment of Cambauld was illegal, and all his decrees void. Orders have at length been sent to suppress the court." He also stated, that "the late instruction of Great Britain enlarges the rights and security of the trade of neutrals; for, instead of former restraints, it is now admitted, that a direct trade by neutrals between their respective countries, and the French, Dutch, and Spanish West Indies, out and home, and likewise the direct voyage from those colonies to any port in Great Britain, are lawful, and not liable to interruption."

Pickering apprised Hamilton, that,

"the complaints of British captures were the clamors of interested men engaged in illicit commerce. It is the shameful and often detected frauds in the documents furnished to our merchant vessels, that have induced the British naval officers to disregard their papers, and to rest satisfied with nothing short of an actual examination of their cargoes; and thus vexation will doubtless continue more or less until the honest merchants come forward and expose their fraudulent neighbors." As to the alien bills, he answered, "of one thing you may rest assured, that they will not err on the side of severity, much less of cruelty. I wish they may really provide for the public safety." After several just and intelligent comments on the service of Militia, he thought that, "instead of waiting an actual invasion, the raising of the army ought now to be commenced."

The bill to raise a Provisional army was reported to the Senate by Goodhue—a Senator from Massachusetts, on the thirteenth of April; and after having been recommitted, passed that body by a vote of thirteen to eight. It also passed the House by a vote of forty to thirty-two. This bill, it is seen, provided for the appointment of a "COMMANDER of the Army," with the rank of "LIEUTENANT-GENERAL." As Washington had held the rank of "GENERAL and Commander-in-chief," by the unanimous vote of Congress during the War of the Revolu-

tion, it would have been an indignity to create for him a command with inferior rank. Hamilton is seen to have contemplated his being called to the chief command, but that was previous to the passage of this bill. The fact appears to be, that Hamilton was the person contemplated in the creation of this second rank.

"From the first moment," Pickering wrote * to Hamilton, "that a commander-in-chief was thought of, no name was mentioned but yours; for, until the nomination was actually made, I had no suspicion that General Washington would ever again enter the field of war." "It was among New England members of Congress that I heard you, and you only, mentioned as the Commander-in-Chief, until General Washington was nominated." "Of the citizens of the United States, *who had seen service*," Colonel Pickering states, "I knew not one to place in competition with him. It was while I was in this state of mind, that the following dialogue took place between Mr. Adams and me: 'Whom shall we appoint Commander-in-Chief?' Adams inquired. 'Colonel Hamilton,' was my answer. Adams made no reply. On another day, he repeated the same question, and I gave him the same answer. He did not reply. On another day, he, for the third time, asked me, 'Whom shall we appoint Commander-in-Chief?' and the third time I answered, 'Colonel Hamilton.' 'O no,' replied Adams, 'it is not his turn by a great deal; I would sooner appoint Gates, or Lincoln, or Morgan.' Instantly I rejoined to this effect, 'General Morgan is here a member of Congress, now very sick, apparently with one foot in the grave; certainly a very brave and meritorious officer in our revolutionary war; and perhaps his present sickness may be the consequence of the hardships and sufferings to which he was then subjected; but, if he were in full health, the command of a brigade would be deemed commensurate with his talents. As for Gates, he is now an old woman, and Lincoln is always asleep.'* Adams made no reply."†

No consideration of public duty could overcome

* Hamilton's Works, vi. 344–352.

* Alluding to his lethargy which showed itself as early as 1776.

† Pickering's Review, Adams's Correspondence, &c.

Adams's hostility to Hamilton. Not daring to confront the clearly expressed opinion of leading Federalists in his behalf, Adams resorted to a measure, wise in itself, though unhappy in the mode, which silenced all cavil. He wrote to Washington on the twenty-second of June:

"In forming an army, whenever I must come to that extremity, I am at an immense loss whether to call out all the old generals, or to appoint a young set. If the French come here, we must learn to march with a quick step, and to attack; for, in that way only, they are said to be vulnerable. I must tax you sometimes for advice. We must have your name, if you will, in any case, permit us to use it. There will be more efficacy in it than in many an army."

Washington, who had been prepared by Hamilton for this call upon his patriotism, expressed his willingness to serve in case of actual invasion, but doubted whether France would attempt it "after such a uniform and unequivocal expression of the sense of the people."

"That they have been led to believe, by their agents and partisans amongst us, that we are a divided people, that the latter are opposed to their own Government, and that *a show of a small force would occasion a revolt*, I have no doubt; and how far these men, grown desperate, will further attempt to deceive, and may succeed in keeping up the deception, is problematical. Without this, the folly of the Directory in such an attempt, would, I conceive, be more conspicuous, if possible, than their wickedness."

The Secretary at War also wrote to Washington, expressing his wish that he would accept the chief command, and asking his views as to the organization of the army. On the fifth of July, Washington replied:

"The President's letter to me, though not so expressed in terms, is, nevertheless, strongly indicative of a wish that I should take charge of the military force of this country; and, if I take his meaning right, to *aid also in the selection of the General officers*. The appointment of these are *important*, but those of the GENERAL STAFF are *all*-

important; insomuch, that if I am looked to as the Commander-in-chief, I *must be allowed to choose such as will be agreeable to me.* To say more, at *present*, would be unnecessary; first, because an army may not be wanted; and secondly, because I might not be indulged in this choice, if it was.

"You will readily perceive, that a main difficulty with *me*, in this business, proceeds from the different epochs at which the army may be formed, and at which it would be proper for me to take the command of it (*in case the preliminaries mentioned in my other letter are solved to my satisfaction*). The President, knowing that ten thousand men cannot be raised by the blowing of a trump, might deem it expedient, from such appearances, or information as would justify under the act, to prepare for the worst. I, on the other hand, have no disposition, and think it would be bad policy to come forward before the emergency *becomes* evident, farther than that it might be known, that I will step forward, when it does appear so, unequivocally; and, if the matters for which *I have stipulated* as previously necessary, are ascertained and accommodated, I shall have no objection to the annunciation (if good would result from it) of this determination. But what is to be done in the interval? I see but two ways to overcome the difficulty, if it is an object to accommodate my wishes; first, to delay the appointment of the GENERAL STAFF to the latter epoch, if no inconvenience would result from it—or if this cannot be, then to advise with me on the appointment of them. I mention the matter *now* and in this *manner*, because I have some reason to believe, that there are very fit men who would be coadjutors with me, whose services without could not be commanded."

On the second of July, before Washington's decision was known, the President nominated him Lieutenant-General. His appointment was unanimously confirmed by the Senate. Adams forthwith addressed to him a letter stating his motives for this precipitate procedure, of which the Secretary at War was requested to become the bearer, to whom he gave open instructions; observing, "his advice in the formation of a list of officers would be extremely desirable" to him. The names of several were given, of whom Lincoln was the first, adding, "Particu-

larly, I wish to have his opinion on the men most suitable for Inspector-General, Adjutant-General, and Quarter-master-General." *

McHenry proceeded to Mount Vernon, whence he wrote to the President, stating the terms on which Washington would consent to serve, "that the General officers and General staff should not be appointed *without his concurrence*." He also informed him, that he would obtain from the late President the names of the persons he had in view. Being assured by the Secretary at War "that there was every reason to believe his wishes would not be thwarted," † Washington gave him a list of officers for each grade in the General staff, at the head of which was Hamilton, as "Inspector-General and Major-General," and next in order, "Charles Cotesworth Pinckney and Knox, as Major-Generals." Two days after this explicit communication, he answered the President, accepting the commission, but declining any emoluments, until he should "incur expense."

Thus fully apprised of his views, the President laid before the Senate, in a special message, this letter of acceptance.

The appointment of Hamilton to the second command as little accorded with the feelings of the President as to have raised him to the first. The preference of Pinckney at the previous election, to himself as President, was an offence never to be pardoned.

"That must be a sordid people indeed," he wrote to Knox, "a people destitute of a sense of honor, equity, and character, that could submit to be governed by a Pinckney, under an elective government. Hereditary government, when it imposes young, new, inexperienced men upon the public, has its compensations and equivalent, but elec-

* Washington's Writings, xi. 531.

† Marshall's Life of Washington, v. 756.

tive government has none. I mean by this no disrespect to Mr. Pinckney."

Such was the language of this "distempered mind" towards a citizen eminent for his virtues, selected by Washington for two most important delicate missions, "which he filled in a manner unexceptionable."

Even the office of the Secretary of the Treasury, because Hamilton had filled it,* was an object of jealousy.

"The organization of the Stamp Act," he wrote to Wolcott, "suggests a vexation to me. The bill was worth money, and money was so much wanted for the public service, that I would not put it at risk, otherwise I would have negatived that bill; not from *personal feelings*, for I care not a farthing for all the personal power in the world. But the office of the Secretary of Treasury is, in that bill, *premeditately set up as a rival to that of the President;* and that policy will be pursued, if we are not on our guard, till we have a quintuple or centuple Executive directory, with all the Babylonish dialect which modern pedants most affect."

The disclosure of Adams's hostility led Pickering at last, before Washington's acceptance of the chief command, and wholly uninformed of what had passed on the subject, to address him this emphatic letter:

"Sir: My attachment to my country, and my desire to promote its best interests, I trust, have never been equivocal; and at this time I feel extreme anxiety that our *army* should be organized in the most efficient manner. The enemy whom we are preparing to encounter, veterans in arms, led by able and active officers, and accustomed to victory, must be met by the best blood, talents, energy, and experience that our country can produce. Great military abilities are the portion of but few men in any nation, even the most populous and warlike.

* Yet Adams had early written, as to Hamilton, "The Secretary of the Treasury is all that you think him. There is no office in the Government better filled. It is unhappy, that New York has taken away one of his supports." To John Trumbull, January 23, 1791.

How very few, then, may we expect to find in the United States? In them the arrangements should be so made that not one might be lost. There is one man who will gladly be your *second;* but who will not, I presume, because I think he ought not, to be the second to any other military commander in the United States. You too well know Col. Hamilton's distinguished ability, energy, and fidelity, to apply my remark to any other man. But to ensure his appointment, I apprehend the weight of your opinion may be necessary. From the conversation that I and others have had with the President, there appears to be a disinclination to place Colonel Hamilton in what we think is his proper station, and that alone in which we suppose he would serve—the *second* to you, and the *chief in your absence.* In any war, and especially in such a war as now impends, a commander-in-chief ought to know, and have a confidence in the officers most essential to ensure success to his measures. In a late conversation with the President, I took the liberty to observe, that the army in question, not being yet raised, the only material object to be contemplated in the early appointment of the Commander-in-chief would be, that he might be consulted, because he ought to be satisfied in the choice of the principal officers who should serve under him. If any considerations should prevent your taking the command of the army, I deceive myself extremely, if you will not think that it should be conferred on Colonel Hamilton. And in this case it may be equally important, as in the former, that you should intimate your opinion to the President. Even Colonel Hamilton's political enemies, I believe, would repose more confidence in him than in any military character that can be placed in competition with him. This letter is, in its nature confidential, and therefore can procure me the displeasure of no one: but the appointment of Colonel Hamilton, in the manner suggested, appears to me of such vast importance to the welfare of the country, that I am willing to risk any consequences of my frank and honest endeavors to secure it. On this ground I assure myself you will pardon the freedom of this address.

"P. S.—Mr. McHenry is to set off to-morrow or Monday, bearing your commission."

Soon after, on learning the nomination of Washington, Hamilton repaired to the seat of government. He arrived at Philadelphia on the seventh of July, the day

after the date of the previous letter, whence he also wrote to Washington on the eighth.

"I was much surprised on my arrival here, to discover that your nomination had been without any previous consultation of you. Convinced of the goodness of the motives, it would be useless to scan the propriety of the step. It is taken, and the question is, What, under the circumstances, ought to be done? I use the liberty, which my attachment to you and to the public authorizes, to offer my opinion, that you should not decline the appointment. It is evident that the public satisfaction at it is lively and universal. It is not to be doubted, that the circumstance will give an additional spring to the public mind, will tend much to unite, and will facilitate the measures which the conjuncture requires. On the other hand, your declining would certainly produce the opposite effects, would throw a great damp upon the ardor of the country, inspiring the idea that the crisis was not really serious or alarming. At least, then, let me entreat you, and in this all your friends, indeed all good citizens, will unite, that, if you do not give an unqualified acceptance, you will accept provisionally, making your entering upon the duties to depend on future events; so that the community may look up to you as their certain commander. But I prefer a simple acceptance.

"It may be well, however, to apprise you, that the arrangement of the army may demand your particular attention. The President has no relative ideas, and his prepossessions on military subjects in reference to such a point are of the wrong sort. It is easy for us to have a good army, but the selection requires care. It is necessary to inspire confidence in the efficient part of those who may incline to military service. Much adherence to routine would do great harm. Men of capacity and exertion in the higher stations are indispensable. It deserves consideration, whether your presence at the seat of government is not necessary. If you accept, it will be conceived that the arrangement is yours, and you will be responsible for it in reputation. This, and the influence of a right arrangement upon future success, seem to require that you should, in one mode or another, see efficaciously, that the arrangement is such as you would approve."

On the eleventh of July Washington replied to Pickering, excusing the delay of his reply by the irregularity of the mail.

"Of the fitness and ability of the gentleman you have named for a high command in the *provisional* army, I think as you do; and *that his services ought to be secured at almost any price.* What the difficulties are that present themselves to the mind of the President, in opposition to this measure, I am entirely ignorant; but, *in confidence*, and with the frankness you have disclosed your own sentiments on this occasion, I will unfold mine, under the view I have taken of the prospect before us, and shall do it concisely." This opinion, founded on the belief that in case of invasion it would be of the Southern States, was, that Pinckney, from his merits, and position, and former rank, would not accept an appointment junior to Hamilton. That it would be impolitic, and might be dangerous, by such a preference to sow the seeds of discontent in the Southern States, and that he hoped and trusted the place of "Inspector-General, with a command in the line, would satisfy Hamilton;"—but not having the laws at hand to resort to, or knowing precisely what general officers are authorized by them, he requested, "for that reason that nothing here said may be considered definitive."

Three days after, he wrote to Hamilton:

"Your letter of the eighth instant was presented to me by the Secretary of War on the eleventh, and I have consented to embark once more on a boundless field of responsibility and trouble, with two reservations. First, that the principal officers in the line and of the staff shall be such as I can place confidence in; and that I shall not be called into the field until the army is in a situation to require my presence, or it becomes indispensable by the urgency of circumstances; contributing in the meanwhile every thing in my power to its efficiency and organization, but nothing to the public expense, until I am in a situation to incur expense myself. It will be needless, after giving you this information, and having indelibly engraved on my mind, the assurance contained in your letter of the second of June, to add, *that I rely upon you, as a coadjutor and assistant* in the turmoils I have consented to encounter.

"I have communicated very fully with the Secretary of War on the several matters contained in the powers vested in him by the President; who, as far as it appears by them, is well disposed to accommodate." He then mentioned his recommendation of him as "Inspector-General and Major-General," and of Pinckney and Knox next in order,

as Major-Generals—informed him of his doubts whether Pinckney would consent to be ranked below him; for "with respect," he said, "to my friend, General Knox, whom I love and esteem, I have ranked him below you both." "Under the view," taken by him as to Pinckney, he adds, "*my wish to put you first*, and my fear of losing him, is not a little embarrassing. But why? for after all it rests with the President to use his pleasure. I shall only add, therefore, that, as the welfare of the country is the object I persuade myself we all have in view, I shall sanguinely hope, that smaller matters will yield to measures which have a tendency to promote it."

On the receipt of Washington's letter, Pickering communicated* its contents to Hamilton, observing:

"At all events, I trust that the same genuine patriotism which determined you and some others to encounter the perils of the American Revolution, and by your talents and active labors to swell another's glory, will prompt you again to come forth in a situation, if not at the height of my wishes and those of your friends, certainly in a situation in which you can render invaluable services, and as certainly obtain a large share of honor and of military fame."

Hamilton replied the next day:

"I had contemplated the possibility that *Knox* might come into service, and was content to be second to him, if thought indispensable. *Pinckney*, if placed over me, puts me a grade lower. I don't believe it to be necessary. I am far from certain, that he will not be content to serve under me; but I am willing that the affair should be so managed as that the relative ranks may remain open to future settlement, to ascertain the effect of the arrangement which has been contemplated. I am not, however, ready to say, that I shall be satisfied with the appointment of Inspector-General, with the rank and command of Major-General, on the principle, that every officer of higher rank in the late army, who may be appointed, is to be above me. I am frank to own that this will not accord with my opinion of my own pretensions, and I have every reason to believe that it will fall far short of public opinion. Few have made so many sacrifices as myself. To few would

* July 16.

a change of situation for a military appointment be so injurious as to myself. If with this sacrifice, I am to be degraded below my just claim in public opinion, ought I to acquiesce?"

Pickering immediately answered, stating the fact of the arrival of the Secretary of War, with the list in Washington's handwriting previously mentioned. "Your nomination," he says, "stands first as above—'A. Hamilton of New York, Inspector-General, with the rank of Major-General.' Pardon me for repudiating exceedingly the idea of your being made subordinate to Knox. Nobody ever thought of such a thing."

On the same day, Governor Jay wrote to the Secretary of State, fully confirming the views he had expressed to Washington. Having stated his gratification at the acceptance of the chief command by Washington, and his solicitude that the other appointments to the army should be adapted to the emergency, he added:

"I cannot conceal from you my solicitude, that the late Secretary of the Treasury may be brought forward in a manner corresponding with his talents and services. It appears to me, that his former military station and character, taken in connection with his late important place in the Administration, would justify measuring his rank by his merit and value. Pardon these hints; I know that these matters are not within my department, but they occupy my mind continually."

CHAPTER CXLIV.

When Washington's list of officers was received by the President, he prepared a message,* in which the names of Hamilton, Pinckney and Knox were placed in this order. Previous to preparing this message, he remarked, "that Colonel Hamilton (former rank considered,) was not entitled to stand so high, and that he did not know what were the merits which gave Pinckney preference to Knox. McHenry mentioned Washington's opinions, and to prevent misconception, showed the President his letter to Hamilton. It appeared to McHenry at the time that these objections were overcome. The next day, however, the President recurred to them, saying, that "he could not think of placing Hamilton before Knox," who, "for various reasons, (among others, his former rank in the army) was clearly entitled to rank next to Washington. He finally agreed to follow Washington's arrangement, on the Secretary's admitting that "any of the parties, if dissatisfied with the order of arrangement, might have their claims discussed and settled by a board of officers or the Commander-in-chief." The message was laid before the Senate, and the Generals were confirmed in the order

* Washington's Writings. McHenry to Washington, Sept. 19, 1798, xi. 542.

stated. When the nominations were taken up for consideration, some of the Senators, who knew the President's antipathy to Hamilton, proposed to act on his nomination, and to defer their decision on the other two till the next day, lest if all were approved on the same day, in which case all their commissions would bear the same date, the President should derange that order, and raise Pinckney and Knox above Hamilton. But the constant usage being referred to, founded on a resolve of the old Congress, that persons nominated and approved on the same day should take rank in the order in which they were nominated and approved, and that surely the President would not violate the rule, the nominations were all confirmed.* To prevent embarrassment, Hamilton wrote to Washington on the twenty-ninth of July, disclosing to him his readiness to sacrifice the higher rank to public considerations.

"Your letter of the fourteenth instant did not reach me till after the appointments mentioned in it were made. I see clearly in what has been done a new mark of your confidence, which I value as I ought to do. With regard to the delicate subject of the relative rank of the Major-Generals, it is very natural for me to be a partial judge; and it is not very easy for me to speak upon it. If I know myself, however, this at least I may say, that were I convinced of injustice being done to others in my favor, I should not hesitate even to volunteer a correction of it as far as my consent could avail. But in a case like this, am I not to take the opinion of others as my guide? If I am, the conclusion is, that the gentlemen concerned ought to acquiesce. It is a fact, of which there is a flood of evidence, that a great majority of leading Federal men were of opinion, that in the event of your declining the command of the army, it ought to devolve upon me; and that in case of your acceptance, which everybody ardently desired, the place of second in command ought to be mine. It is not for me to examine the justness of this opinion. The illusions of self-love might be expected too easily to give it credit with me. But finding it to exist,

* Gibbs's "Administration of Washington and Adams," ii. 90.

am I at liberty to seek to postpone myself to others, in whose hands, according to that opinion, the public interests would be less well confided? Such are the reflections which would have determined me to let the business take its course.

"My own opinion, at the same time is, that of the two gentlemen postponed to me, the cause of complaint, if any, applies emphatically to General Knox. His rank in the army was much higher than that either of Pinckney or myself. Pinckney's pretensions on the score of real service are not extensive;—those of Knox are far greater. Pinckney has no doubt studied tactics with great care and assiduity. But it is not presumable, that he is as well versed in the tactics of a General as *Knox*. Pinckney's rank, at the close of the war, was only nominally greater than mine. It was indeed of more ancient date. But when, in the year seventeen hundred seventy-seven, the regiments of artillery were multiplied, I had good reason to expect that the command of one of them would have fallen to me had I not changed my situation; and this in all probability would have led further. I am aware at the same time there were accidental impediments to Pinckney's progress in preferment; but an accurate comparison would, I imagine, show that on the score of rank merely, the claim of superiority on his part is not strongly marked. As to military *service*, I venture to believe, that the general understanding of the late army would allow a considerable balance to me. As to civil services since the war, I am extremely mistaken, if in the minds of Federal men there is any comparison between us. The circumstances of the moment, it is true, give him a certain *éclat*, but judicious men reduce the merit to the two points of prudent *forbearance* and the *firmness* not to sacrifice his country by base compliance. In all this, it is very far from my inclination to detract from General Pinckney. I have a sincere regard for him, and hold him in high estimation. At the same time, endeavoring to view the matter with all the impartiality which my situation permits, I must conclude that General Pinckney, on a fair estimate of circumstances, ought to be well satisfied with the arrangement.

"After saying this much, I add, that regard to the public interest is ever predominant with me; that, if the gentlemen concerned are dissatisfied, and the service likely to suffer by the preference given to me, I stand ready to submit our relative pretensions to an impartial decision, and to waive the preference. IT SHALL NEVER BE SAID, WITH ANY

COLOR OF TRUTH, THAT MY AMBITION OR INTEREST has stood in the way of THE PUBLIC GOOD.

"Thus, sir, have I opened my heart to you with as little reserve, as if to myself; willing rather that its weaknesses should appear than that I should be deficient in frankness. I will only add, that I do not think it necessary to make public beforehand, the ultimate intention I have now disclosed. It is possible the difficulties anticipated may not arise."

A few days after the date of this letter, the President abruptly left Philadelphia, without informing either the Secretaries of State or of War of his intended departure. Wolcott was then absent. McHenry, anxious to organize the army and exceedingly embarrassed, wrote to the President, suggesting that Hamilton and Knox should be called into immediate service. Adams replied, on the fourteenth of August, that to call the Generals into immediate service, before the relative rank was settled, would be attended with difficulty.

"In my opinion, as the matter now stands, General Knox is legally entitled to rank next to Washington, and no other arrangement will give satisfaction. If General Washington is of this opinion, *and will consent to it*, you may call him into actual service as soon as you please. The consequence of this will be, that Pinckney must rank before Hamilton. If it shall be *consented* to, that the rank shall be Knox, Pinckney and Hamilton, you may call the latter too, into immediate service, when you please. Any other plan will occasion long delay and much confusion. You may depend upon it, the five New England States will not patiently submit *to the* humiliation that has been meditated for them." *

* The opinions of Adams and Jefferson with regard to Washington are marked. Thus while Adams charges him with meditating "the humiliation of the five New England States," Jefferson left behind him this extraordinary minute: "The President" (Washington) "speaking with Randolph on the hypothesis of a separation of the Union into Northern and Southern, said, he had *made up his mind* to remove and be of the Northern." In a paper in Jefferson's autograph, endorsed "Heads of Information given me by E. Randolph."

It was not to be supposed that Knox would readily acquiesce in the priority of Hamilton. Washington sought to soothe him by stating at large the grounds on which he had placed Hamilton first in rank.

"The first of these in the public estimation, Colonel Hamilton," as declared to me, is designated to be second in command; with some fears, I confess, of the consequences, although I must acknowledge at the same time, that I *know not where* a more competent choice could be made." Again, he wrote him, that "no doubt remained in his mind that Colonel Hamilton was designated second in command (and first, if I should decline in acceptance,) by the Federal characters of Congress, whence alone any thing like a public sentiment relative thereto could be deduced. Although his services during the war were not rendered in the grade of a general officer, yet his opportunities and experience could not be short of those of the officers that served in that rank. Adding these to the important trusts reposed in him in various civil walks of life, he will be found, I trust, upon as high ground as most men in the United States." "If," he observed, "there has been any management in the business, it has been concealed from me. I have had no agency therein, nor have I conceived a thought on the subject that has not been disclosed to you with the utmost sincerity and frankness of heart."

Knox claimed, that all appointments made in the same grade, and on the same day, were to be governed by the former relative rank; and declared, that such a preference would be an insurmountable obstacle to his acceptance of a commission.

This correspondence Washington enclosed to Hamilton. Professing his willingness, if that would satisfy Knox, to prefer him to Pinckney, he urged Hamilton "to devote a good deal of his time to the business of recruiting *good* men, and the choice of *good* officers." "Write me as often as you can conveniently, and believe me to be what I really am, your sincere and affectionate friend." Hamilton answered on the twentieth of August from New York:

"It is very grateful to me to discover in each succeeding circumstance a new mark of your friendship towards me. Time will evince that it makes the impression it ought on my mind. The effect which the course of the late military appointments has produced on General Knox, though not unexpected, is very painful to me. I have a respectful sense of his pretensions as an officer, and I have a warm personal regard for him. My embarrassment is not inconsiderable between these sentiments and what I owe to a reasonable conduct on my own part, both in respect to myself and to the public. It is a fact, that a number of the most influential men in our affairs would think, in waiving the preference given to me, I acted a weak part in a personal view; and General Knox is much mistaken, if he does not believe that this sentiment would emphatically prevail in that region to which he supposes his character most interesting—I mean New England. Yet, my dear Sir, I can never consent to see you seriously compromitted or embarrassed. I shall cheerfully place myself in your disposal, and facilitate any arrangement you may think for the general good. It does not, now, however, seem necessary to precipitate any thing. It may be well to see first, what part General Pinckney will act when he arrives."

Soon after, Adams took the decisive step. McHenry wrote him a deferential letter on the twentieth of August, expressing his apprehensions of the consequences of a departure from the order of rank prescribed by Washington; reminded him, that the choice of the Generals, as well as their military rank, proceeded originally and exclusively from General Washington, and that he had no agency direct or indirect; either before or while at Mount Vernon, in deciding his mind as to the choice or the arrangement of the rank of those he had selected. That he had informed him, that General Washington made the right to name the General officers and General staff *a condition of his acceptance*, and he had presented the list to him. He submitted "to his serious deliberation, whether it was proper or expedient to attempt an alteration in the rank in question; and, if so, whether it would not be bet-

ter to transfer the decision to others, than undertake to determine it himself."

On the twenty-ninth of August, the President replied:

"My opinion is, and always has been clear, that, as the law now stands, the order of nomination or of recording has no weight or effect; but that officers appointed on the same day, in whatever order, have a right to rank according to *antecedent services*.* I made the nomination according to the list presented by you from General Washington, in hopes that rank might be settled among them by agreement or acquiescence, believing at the same time, and expressing to you that belief, that the nomination and appointment *would give Hamilton no command at all*, nor any rank before any Major-General. This is my opinion still. I am willing to settle all decisively at present, (and have no fear of the consequences,) by dating the commissions—Knox on the first day, Pinckney on the second, Hamilton on the third. If this course is not taken, and the commissions are all made out on the same day, I tell you my opinion is clear, that Hamilton will legally rank after Hand, and I fear even after Lee. You speak to me of the expediency of attempting an alteration in the rank of the gentlemen in question. You know, sir, that no rank has ever been settled by me. You know that my opinion has always been, as it now is, that the order of names in the nomination and record was of no consequence. General Washington has through the whole conducted with perfect

* Yet on the 7th of May, 1799, when no personal motive longer governed, in reply to McHenry, who recommended that the "relative rank at the close of the revolutionary war, of all such officers as had served in that war, should govern, liable to exceptions in case of extraordinary service or merit," Adams wrote: "I have considered the subject of it with as much attention as will be necessary to agree in general to your principles. Merit I consider, however, as the only true scale of graduation in the army. Services and rank in the last war, or in any other war, are *only* to be taken into consideration as presumptive evidence of merit, and may at any time be set aside by contrary proof. Services and rank in civil life and in time of peace, I think, ought not to be forgotten or neglected, for they are often of more utility and consequence to the public than military services. The right, authority, and duty of Government in clear cases of unusual merit, of extraordinary services, or uncommon talent, ought always to be asserted and maintained, and constantly held up to the view of the army." Works of John Adams, viii. 640.

honor and consistency. I said, and I say now, if I could resign him the office of President, I would do it immediately, and with the highest pleasure; but I never said, I would hold the office, and be responsible for its exercise, while he should execute it. He has always said, in all his letters, that these points must ultimately depend upon the President."

He objected to a reference to General Washington, or to mutual and amicable accommodation, because, he said, he foresaw it would, after much exasperation, come to him at last, and he would then determine it exactly as he should now—Knox—Pinckney—Hamilton. He added, "There has been too much intrigue in this business both with General Washington and me. If I shall ultimately be the dupe of it, I am much mistaken in myself." * * *

In obedience to the instructions of the President, commissions for the three Major-Generals were made out, giving precedence in date to Knox and Pinckney. The Secretary at War at the same time repelled the charge of intrigue, and asked an explanation of the President; stated his abhorrence of all indirect practices, and declared his readiness to retire.

The direction which this matter had taken was extremely embarrassing. Hamilton had written to McHenry: *

"The affair of General Knox perplexes me. I wish him to serve. I am pained to occasion to him pain, for I have truly a warm side for him, and a high value for his merits. But my judgment tells me, and all I consult confirm it, that I cannot reasonably postpone myself in a case in which a preference so important to the public in its present and future consequences has been given to me. In denominating the preference important, I do not intend to judge whether it be well or ill-founded. In either case its tendency is important. I am willing to confer, to adjust amicably with the advice of mutual friends, but how can I abandon my pretensions?"

* August 19.

He enclosed him the draft of a letter to be addressed by him to General Knox, regretting the embarrassment which had arisen, and proposing that the relative rank should be left to future decision.

With this private letter, an official one of the same date was also sent.

"The tenor of General Knox's letter, transmitted by you and now returned, occasions me no small regret and embarrassment. My esteem and friendship for that gentleman would lead me far; but there is a very great difficulty in waiving a station to which, I am well convinced, I have been called, no less by the public voice of this country than by the acts of the Commander-in-Chief and of the President and Senate. The intention as to the relative grades of the officers appointed, is presumed to be unequivocal. It is believed, that the rule to which General Knox refers, can have no application to the case of the formation of a new army at a new epoch, embracing officers not previously *in actual* service. It was not a permanent provision of law, but a regulation adapted to the peculiar circumstances of the late army, and governing, as far as I can recollect, only in the cases of promotions from lower subsisting grades to higher ones. At the same time it is very delicate for me to give an opinion in a matter in which I am so personally interested."

Two days after,* the Secretary of State wrote to him —stating his belief that Knox would not serve.

"I think it right to add," he observed, "that from the first moment that a Commander-in-chief was thought of, no name was mentioned but yours; for, until the nomination was actually made, I had no suspicion that General Washington would ever again enter the field of war." His views were repeated in subsequent letters.

Hamilton answered with a grateful acknowledgment of the sentiments of Pickering.

"I shall be happy," he said, "to be ranked by you in the number of your friends. The course of the thing in a particular quarter does

* August 21.

not surprise. Besides the direct influence which would be exerted, I am aware that the circumstances of the late election for President have made some unfortunate impressions. The Commander-in-Chief, I am authorized by his own communications to me to believe, will not easily relinquish the original spirit of the primitive arrangement; but in the last resort, I shall be inclined to have much deference for his wishes. It is important he should well understand, what I verily believe to be an undoubted fact, that New England would rather see high command in my hands, than in those of General Knox."

Soon after the determination of Adams to place Hamilton below the other Major-Generals, very strong letters were addressed by the Secretaries of War and State to Washington.—"Every public man," it was observed in one of them, "except the President, feels that no officer ought to intervene between you and Colonel Hamilton. Of all the Senators and Representatives from New England, whose opinions I have heard, not one ever entertained the idea that Hamilton should be second to any, but you."—Apologizing for his frank communication as to Adams, Pickering remarked, "Although I respect the President for many great and excellent qualities, I cannot respect his errors, his prejudices, or his passions."—"The fact is, that the President has an extreme aversion to Colonel Hamilton; a personal resentment; and if he followed his own wishes and feelings alone, would scarcely have given him the rank of a Brigadier."

On the sixth of September, McHenry, urged to commence the organization of the army, informed the President of his purpose to make out the commissions, giving Knox and Pinckney precedence to Hamilton, whom he apprised of this intention. Willing as Hamilton had been, at an early stage of this affair, to yield priority both to Knox and Pinckney, as seen in his letters to Washington and to Colonel Pickering, the matter had assumed a form

which he felt did not permit, unless and solely in accordance with Washington's expressed desire, his relinquishing the rank to which he was by the act of the Government entitled. He wrote,* in answer to McHenry, "My mind is unalterably made up. I shall certainly not hold the commission on the plan proposed, and only wait an official communication to say so."

The Secretary at War replied,† "I do not, I cannot blame you for your determination. Mr. Pickering, Mr. Wolcott, and Mr. Stoddert have agreed to make a respectful representation on the subject to the President." On the thirteenth of the same month, the President replied to McHenry:

"I have received your favor of the sixth, and approve of your determination to make out the Commissions in the order of Knox on the first day, Pinckney on the second, and Hamilton on the third. This being done, you may call Generals Knox and Hamilton into service as soon as you please. Your request to be informed whether I attach any portion of the intrigues, which I alluded to, if any have been employed, to you, is reasonable; and I have no scruple to acknowledge that your conduct through the whole towards me has been candid. I have suspected, however, that extraordinary pains were taken with you, to impress upon your mind that the public opinion and the unanimous wish of the Federalists was, that General Hamilton might be the first, and even Commander-in-Chief; that you might express this opinion to General Washington more forcibly than I should have done; and that this determined him to make the arrangement as he did. If this suspicion was well-founded, I doubt not you made the representation with integrity. I am not, and never was, of the opinion that the public opinion demanded General Hamilton for the first, and I am now clear that it never expected nor desired any such thing. *The question being now settled*, the responsibility for which I take upon myself, I have no hard thoughts concerning your conduct in this business, and I hope you will make your mind easy concerning it."

* September 8. † September 10.

After much reflection, a communication was prepared to be submitted to the President by Wolcott and McHenry ;—but, to avoid giving official advice the semblance of official authority, it was resolved, that a letter should be written by Wolcott alone, who had been absent from the seat of government while this subject was pending.

This letter* disproved the inference from the resolve of the old Congress, by showing, that it was of a partial application, and by referring to a general resolution, which declared that in all elections of the same day, to commands of the same rank, the officers shall take rank according to their election, and the entry of their "names in the minutes; and their commissions shall be numbered to show their priority." It also referred minutely to the conditions of Washington's acceptance, and to facts, to show, that Adams contemplated Hamilton's priority at the time of the nomination, and that the Senate had the same purpose.†

"General Hamilton's pretensions are, however, seconded by the wishes of General Washington, and by the opinion of a vast majority of the wisest and most efficient supporters of the government, in every part of the United States; the political enemies of both are the same, but while they respect and confide in the great talents of the former, they estimate the abilities of the latter by a different scale."

Motives of the largest public consideration were added, urging Hamilton's priority.

A letter was also presented to the President by Cabot, which had been prepared in concert with Ames and Higginson, showing the priority of Hamilton's claims, and discussing the precedents to prove his title to the superior rank.‡

* September 17.

† "Administration of Washington and Adams," ii. 93.

‡ Cabot wrote to a member of the Cabinet: "Must it not become a max-

Washington felt extreme indignation at the course taken by Adams. Regarding it as a direct breach of the compact under which his appointment had been accepted, he wrote to the Secretary at War on the sixteenth of September:

"I can perceive pretty clearly, that the matter is, or very soon will be, brought to the alternative of submitting to the President's forgetfulness of what I considered a compact or condition of acceptance of the appointment with which he was pleased to honor me; or to return him my commission; and as that compact was ultimately, and at the time declared to him, *through you*, in your letter written from this place, and the strong part of it inserted *after* it was first drawn, at my request, to avoid misconception, I conceive I have a right, and accordingly ask to be furnished with a copy of it. You will recollect, too, that my acceptance being conditional, I requested you to take the commission back, that it might be restored or annulled according to the President's determination, to accept or reject the terms on which I had offered to serve; and that, but for your assuring me, that it would make no difference whether I retained or returned it, and conceiving that the latter might be considered as an evidence of distrust, it would have been done. Subsequent events evince, that it would have been a measure of utility; for though the case, in principle, is the same, yet such a memento of the fact could not so easily have been forgotten."

While waiting a short time for information which would justify him in addressing the President, Washington also wrote to Hamilton—"Until the result of this is known, I hope you will suspend a final decision, and let matters remain in statu quo till you hear again from your affectionate George Washington."

im never to be violated, that the President shall be always accompanied by those whom he has selected to assist him in carrying on the Executive government? If at any time he is absent for the benefit of relaxation, let it be adhered to, that he does no business, and gives no opinions. If some system like this is not established, there will be no order nor consistency in our affairs."

"Your obliging favor," Hamilton answered,* "has duly come to hand. I see in it a new proof of sentiments towards me which are truly gratifying. But permit me to add my request to the suggestions of your own prudence, that no personal considerations for me may induce more on your part than on mature reflection you may think due to public motives. It is extremely foreign to my wish to create to you the least embarrassment, especially in times like the present, when it is more than ever necessary, that the interest of the *whole* should be paramountly consulted. I shall strictly comply with the recommendation in the close of your letter."

In the mean time Washington had addressed a strong, studied, formal representation to the President.† In terms of due respect he announced to him his dissatisfaction at the change he had made in the relative rank of the Major-Generals, and his contemplated appointment of an Adjutant-General without intimation to him; expressed his discontent at being appointed to the command without being consulted, and without ascertaining the terms on which he would accept it. Having stated that the conditions of his acceptance were made known through the Secretary at War, he proceeded to detail the manner in which the stipulations he had made were disregarded. "In the arrangement made by me with the Secretary of War, the three Major-Generals stood—Hamilton, Pinckney, Knox; and in this order I expected their commissions would be dated. This, I conceive, must have been the understanding of the Senate, and certainly was the expectation of all those with whom I have conversed. But you have been pleased to order the last to be first and the first last." Having also pointed to the President's course as to the appointment of an Adjutant-General, he dwelt with much earnestness on the

* September 30.

† September 25, 1798. Washington's Writings, xi. 304.

motives which governed him, and ought to have governed in the selection of the general staff, in a war such as would probably be waged by France.—Having stated his own full knowledge of the strong opinion that Hamilton ought to be second in command, he called upon the President to explain, after his own distinct indication of Hamilton for that command, why the order of appointment had been changed, denying the ground taken, that the relative rank of the officers of the army of the Revolution ought to decide their present rank, and showing the consequences of such a rule, in giving a precedence to officers without regard to their qualifications.

"It is an invidious task at all times," he observed, "to draw comparisons, and I shall avoid it as much as possible; but I *have no hesitation in declaring*, that, if the public is to be deprived of the *services of Colonel Hamilton in the military line*, the post he was destined to fill *will not be easily supplied;* and that this is the sentiment of the public, I think I can venture to pronounce. Although Colonel Hamilton has never acted in the character of a General officer, yet his opportunities, as the principal and most confidential aid of the Commander-in-chief, afforded him the means of viewing every thing on a larger scale than those whose attention was confined to divisions or brigades, who knew nothing of the correspondences of the Commander-in-chief, or of the various orders to, or transactions with, the General staff of the army.

"These advantages, and his having served with usefulness in the old Congress, in the General Convention, and having filled one of the most important Departments of government with acknowledged abilities and integrity, have placed him on high ground, and made him a conspicuous character in the United States, and even in Europe. To these, as a matter of no small consideration, it may be added, that as a lucrative practice in the line of his profession is his most certain dependence, the inducement to relinquish it must in some degree be commensurate. By some, he is considered an ambitious man, and therefore a dangerous one. That he is ambitious I shall readily grant, but it is of that laudable kind which prompts a man to excel in whatever he takes in hand. He is enterprising, quick in his perceptions, and his

judgment intuitively great; qualities essential to a military character, and therefore I repeat, that his loss will be irreparable.

"With respect to General Knox, I can say with truth, there is no man in the United States with whom I have been in habits of greater intimacy, no one whom I have loved more sincerely, nor any for whom I have had a greater friendship. But esteem, love and friendship can have no influence on my mind, when I conceive that the subjugation of our Government and Independence are the subjects aimed at by the enemies of our peace, and when possibly our all is at stake."

He then stated the fact that he had written to General Knox, giving him his reasons for desiring the selection of Pinckney as a General, and his "opinion fully with respect to the relative situation of himself and Colonel Hamilton, not expecting the difficulties which have occurred"—and again expressed his dissatisfaction at the course with regard to the appointment of an Adjutant-General. After commenting on the delay in recruiting troops, Washington closed this earnest letter in these terms:

"I have addressed you, sir, with openness and candor, and I hope with respect, requesting to be informed, whether your determination to reverse the order of the three Major-Generals is final, and whether you mean to appoint another Adjutant-General without my concurrence."

This communication clearly indicated Washington's determination to resign his commission should Hamilton not be placed second in command. While waiting the President's answer, he enclosed to the Secretary at War the draft of this letter, "not to be divulged," he enjoined, "unless the result should make it necessary for me to proceed to the final step."

Adams felt that he could no longer trifle with Washington. With the consequences of his own conduct

clearly before him resulting in inevitable disgrace, on the ninth of October, he wrote this characteristic reply:

"Sir,—I received yesterday the letter you did me the honor to write on the twenty-fifth of September. You request to be informed whether my determination to reverse the order of the three Major-Generals is final, and whether I mean to appoint another Adjutant-General without your concurrence. I presume, that before this day you have received information from the Secretary of War, that I some time ago signed the three commissions, and dated them on the same day, in hopes, similar to yours, that an amicable adjustment or acquiescence might take place among the gentlemen themselves. But, if these hopes shall be disappointed, and controversies should arise, they will of course be submitted to you as Commander-in-chief, I was *determined to confirm that judgment.* Because whatever construction may be put upon the resolutions of the ancient Congress, which have been applied to this case, and whether they are at all applicable to it or not, there is no doubt to be made, that, by the present Constitution of the United States, the President has the authority to determine the rank of officers. I have been for some time prepared in my own mind to nominate Mr. Dayton to be Adjutant-General, in case of the refusal of Mr. North. Several others have occurred, and been suggested to me, but none who, in point of science or literature, political and military merit, or energy of character, appears to be equal to him. I have no exclusive attachment to him or any other. If you have any other in contemplation, I pray you to mention him to the Secretary of War, who may fill up his commission immediately in case Mr. North declines. I hope your own health and that Mrs. Washington's are perfect. Mine is very indifferent, and Mrs. Adams's extremely low. Confined to the bed of sickness for two months, her destiny is still very precarious, and mine in consequence of it. With great respect, I have the honor to be, sir, your most obedient and humble servant."

Washington's decision was immediately communicated by him to Hamilton. Knox, on being informed of Hamilton's priority, declined the appointment. Pinckney accepted it cheerfully.

He wrote to the Secretary of War:

"It was intimated to me on my arrival, that it had been doubted whether I would accept my appointment, as General Hamilton, who was of inferior rank to me in the last war, was ranked before me in the new arrangement. I declared then, and still declare, it was with the greatest pleasure I saw his name at the head of the list of Major-Generals, and I applauded the discernment which had placed him there. I knew that his talents in war were great, that he had a genius capable of forming an extensive military plan, and a spirit courageous and enterprising, equal to the execution of it." *

The General staff was now completed,† and Hamilton was called into service. The Secretary at War applied to the President for authority to request the attendance of Washington at the seat of government; the object being, in concert with Hamilton and Pinckney, to select persons to fill the military appointments, and to devise a system for raising, sustaining, disciplining, and distributing the army. The necessity of beginning to recruit was specially urged.

Several months after, Hamilton, having the opportunity offered in the transmission of letters received by him, addressed to General Knox, wrote to him thus:

"My judgment tells me, I ought to be silent on a certain subject; but my heart advises otherwise, my heart has always been the master of my judgment. Believe me, I have felt much pain at the idea that any circumstance personal to me should have deprived the public of your services or occasioned to you the smallest dissatisfaction.

"Be persuaded also, that the views of others,‡ not my own, have

* Hamilton's Works, vi. 373.

† Burr was in contemplation as Quarter-Master-General, but Pickering writes, "Col. Burr cannot be Q. M. G. It is impossible that Gen. Washington should confide in him, and therefore he cannot be appointed."

‡ To a cavil raised on the expression, that "the views of others, *not his own*, have given shape to what has taken place," it is sufficient to refer to the facts that Hamilton, in reply to Washington, suggested for himself only the place of "Inspector-General with rank in the line," and that that nomination

given shape to what has taken place, and that there has been a serious struggle between my respect and attachment for you, and the impression of duty. This sounds, I know, like affectation, but it is nevertheless the truth. In a case in which such great public interests were concerned, it seemed to me the part of reason and propriety, not to exercise an opinion of my own, but to leave that of others, who could influence the issue, to take a free course. In saying thus much, my only motive is to preserve, if I may, a claim on your friendly disposition towards me, and to give you some evidence that my regard for you is unabated. Adieu, my dear sir, very much yours."

was proposed by Washington in order that Hamilton should be second in command; that his being placed first in the list of Major-Generals was the act of Washington, whose opinion was fortified by others, the most leading men of the country, and in accordance with the intention of the Senate; and that as long as self-respect permitted, and the question stood in a form to justify it, he was willing to waive the higher rank both to Knox and Pinckney; though not convinced he owed this sacrifice to any sense of public duty.

CHAPTER CXLV.

While this attempt of the President to violate the stipulation under which Washington accepted the chief command alarmed the leading friends of the Administration, the public mind was kept in constant agitation by intelligence from abroad.

On the nineteenth of May, Bonaparte sailed from Toulon with a large fleet and a select army accompanied by his most confidential officers. Intense anxiety pervaded Europe as to the object of this expedition. The prevalent opinion was, that these troops were to be disembarked on the coast of Spain in the vicinity of Malaga; thence to cross to Portugal;—that the Peninsula would be subjugated; and reinforced by the fleets at Cadiz and in the Tagus; that Bonaparte would plant his standard in the Brazils, reduce South America under French domination, and, with her treasures at command, pursue ulterior designs against the United States. In England it was believed, that Ireland was his object, and that this circuitous route had been taken to escape the British navy. But the Insurrection there had been premature. Its chiefs were without talent or system, and England, roused to unanimity by the threat of invasion, confided in her ability to defend herself and to protect her sister kingdom. Conferences meanwhile were slowly progressing at Rastadt,

of which the sole object, on the part of the Directory, was procrastination. It was called the "Eternal Congress." Distrustful of the issue, Austria was increasing her armies, had gained Russia as an ally, and was holding Naples in check; anxiously awaiting the determination of Prussia before she recommenced hostilities. Thus the state of Europe was wholly unsettled, nor was it possible, except from the wide propagation of French opinions, to divine what would be the issue. That France did not push her victories was to be ascribed to her embarrassed finances, exhausted by her long-continued exertions; and to the jealousy in the Directory of the fast approaching supremacy of the military power.

As to the United States no real change in her policy had taken place. Immediate hostilities were not contemplated. These were postponed in the hope that the Democratic party would gain the ascendency; and that thus all the advantages she desired would be attained. Uninformed of the recent act of Congress abolishing the consular convention, at the very moment Talleyrand was holding a delusive negotiation with Gerry, the appointment was announced of a Consul-General and of consuls and vice-consuls, to be stationed in the several ports of the United States. A corps of revolutionary missionaries —men, who had proved their skill as the fomentors of discord in other countries, were to be planted here, after the Directory had expelled, with grossest marks of contumely, the public envoys of the country. At the same time, Havre was added to the number of ports from which the American commerce was excluded.

Experiments had been in the mean time made upon Gerry. The attempts to inveigle him into a negotiation were at first private, and under an injunction of *secrecy* towards his colleagues. A new proposal was made to

him by Talleyrand to stipulate a loan *now*, to be paid *after* the war, in supplies of American produce for St. Domingo and the French Islands. Gerry favored this proposal. His colleagues rejected it. Gerry corrected the remonstrance of Marshall—but ultimately refused to sign it. It was evident, while the other envoys remained in Paris, Gerry would be controlled by them. Talleyrand then hoping they would retire, offered to treat with the "impartial" member of the Commission. Marshall informed him, that neither of them was authorized to negotiate singly, and that no two of them were disposed to withdraw. They would have withdrawn before, but for the apprehension that Gerry would remain, and thus promote the purposes of France, to continue her depredations—to appear to be willing to treat—and thus to avoid a final issue with this country. In Gerry were found dispositions which suited her. It was resolved to relieve him from the presence of his associates—Pinckney and Marshall were ordered to quit France—while Gerry, though he had assured* his colleagues that he would not remain—did so, without assigning to them his reasons. To induce him to continue, he was told by Talleyrand, that "his opinions, presumed to be more impartial, promised, in the course of the explanations, more of that reciprocal confidence which was indispensable."

Soon after the expulsion of his colleagues, conferences began. The course of these proved conclusively that the Directory "hoped by its seductive arts to prevail over his scruples, and gain his consent to terms, which, while they were present, would be rejected; or at all events to retain him, with the semblance of negotiating regularly or

* "I never met with a man so destitute of candor, and full of deceit as Mr. Gerry."—C. C. Pinckney to T. Pinckney, April 4, 1798.

informally, and thus to keep the United States in the torpor of indecision, without preparation for offence or defence." The insult offered to Marshall, following the previous demands of tribute, ought to have decided Gerry to depart without delay. But a delusive hope, that he alone could accomplish what the joint mission had failed to do, prevailed. Each successive communication gave evidence of the duplicity of the Directory, yet they were received and replied to, until Gerry, deeply injured in public estimation, was reached by a peremptory order to return. Early in August he sailed from Havre.*

The energetic counsels of Hamilton had not only braced the American mind to the high duties of the great emergency, but their effect was now seen in the changed policy of France. Alarmed at the preparations for war, and determined, if possible, to quiet the indignation of the American people, the Directory at last receded from all their extravagant pretensions; declared that they did not wish to break the British treaty; and issued circulars prohibiting the further capture of American vessels; releasing the seamen; and revoking the embargo. But in the language of the revoking decree, they renewed their insults to the Government.

The American Ambassador at St. James wrote to Hamilton,† indicating the subtle policy of France, that, influenced by the union and energy of this nation, she had receded from her demands, and would enter into a liberal

* "I wish," Washington wrote, "on many accounts, that General Pinckney was as safely landed in his own country as I hear Mr. Gerry is, after his *terrible fright*. I hope so soon as he is relieved from the panic with which he was struck, and which must have continued whilst he remained on the watery element, he will come forward in stronger language than his last letter to Mr. Talleyrand contains, and with such explanations as his own character requires, and his country has a right to demand."

† September 17, 1798.

treaty to gain time, looking to the election of the next President.—Hamilton replied on the second of October:

"The public mind of this country continues to progress in the right direction. That must influence favorably the present Congress at the ensuing session. The next will be in all appearance intrinsically better.

"Of the Executive, I need say little; you know its *excellent* dispositions, its general character, and the composition of its parts. You know also how widely different the business of government is from the speculation of it, and the energy of the imagination dealing in general propositions from that of *execution* in *detail*. There are causes from which delay and feebleness are experienced. But this difficulty will be surmounted; and I anticipate with you, that this country will ere long assume an attitude correspondent with its great destinies—majestic, efficient, and operative of great things. A noble career lies before it."

"I am gratified," was the answer, "on receiving your opinion of the good condition of our public affairs, but I do not feel confident we are as safe as you appear to think we are. It is fraud, not force, that I fear."

The course of the extraordinary contest in Europe had shown that a principal cause of the disasters of the conquered nations, was, their confining themselves to a merely defensive system. The burthens of war were incurred without any of its advantages. No objects other than ultimate security were presented to the passions of the multitude, who usually require for the sacrifices they make, strong impulses and present benefits. Lassitude soon succeeded to the first stirrings of patriotism; and the want of administrative energy gave free scope to foreign and domestic intrigue.

This danger was obvious to Hamilton. He saw that a chief reliance of the Democratic party was upon the discontents to which the necessary measures of defence would give rise, (as Jefferson expressed it, with cold indif-

ference to the national honor,) that "War, Land tax, and Stamp tax, were sedatives, which would soon cool the ardor of the nation." It was of the first moment to present some commanding objects to the public mind; to compensate the evils of war by acquisitions permanently important to the national interests; and to secure the American hemisphere from the overruling influence of any European power. Such objects were presented by the conquest of Louisiana and the liberation of the colonial possessions of Spain from her long oppression.

The last resolution of the Congress of the Confederation, from the pen of Hamilton, declaring "the navigation of the Mississippi to be a clear and essential right and to be *supported* as such," was the result of his reflections on the necessity of the acquisition of Louisiana. This subject came before him in a more definitive form in the Cabinet discussions of seventeen hundred ninety, when he pronounced the free use of that river "as essential to the UNITY of THE EMPIRE," and indicated the dangers "of the acquisition of the Floridas and Louisiana by the British," an opinion in which Jefferson coincided. Early in the year ninety-eight, Pickering, then Secretary of State, apprehending the cession of the latter province to France,* propounded to Hamilton the question "What ought we to do in respect to *Louisiana?*" intimating that Spain might prefer its belonging to the United States, to whom, Hamilton's immediate reply† indicates his estimate of the importance of its being withheld from the grasp of any strong power. "If Spain would cede Louisiana to the United States, I would accept it absolutely, if obtainable absolutely; or with an engagement to *restore*, if it cannot be obtained absolutely."

* March 25. † March 27, 1798.

Washington, at this time, regarded as the only probable motive of a war on the part of France with the United States, their "possession of Louisiana and the Floridas;" and when the prospect of a war with that power was imminent, this became a leading motive both in his and Hamilton's mind to the organization of an army. Early in the following year,* Hamilton will be seen to have advised the taking possession of the Floridas and Louisiana, to obviate the mischief of their falling into the hands of an active foreign power, and at the same time to secure to the United States the advantage of keeping the key of the Western country. "I have been long," he wrote, "in the *habit* of considering the acquisition of those countries as ESSENTIAL TO THE PERMANENCY OF THE UNION; which, I consider, as very important to the welfare of the whole."

Each revolving year the more indicates the justness of this opinion; for as the great North Western States increase in population, in that degree is increased the impossibility of the States lying on the Gulf of Mexico being permitted to constitute an independent power—and without these, the other Southern Atlantic States would be too weak to form a separate Confederacy. Thus Providence has interposed in the outlet of the Mississippi a great necessity stronger than all possible motives to disunion, while the Northern Atlantic States in their maritime strength are not less essential to "the common defence and general welfare."

The liberation of South America had also early attracted Hamilton's attention, as it had that of distinguished minds in Europe. Miranda, a native of Caraccas, before reaching manhood, was commissioned as a captain in the

* January 26, 1799. Hamilton's Works, vi. 402.

Spanish army. In this situation he came to the United States with the auxiliaries of France; became familiar with American ideas, and saw in the success of the British colonies a precedent for those of Spain. He disclosed his views, among others, to Hamilton, upon whom he fixed his eyes as a coadjutor in the great purpose of his life. Nor was Hamilton slow to perceive its importance and its advantages. It was, in this view, while urging the adoption of the Federal Constitution upon the people of the several States, he pointed to the extension of liberty to the southern portion of this continent, as one of the consequences to be hoped from an "unity of government." "Our situation invites," he wrote in the Federalist, "and our interests prompt us to aim at an ascendant in American affairs."

It was the sequel to be sought to the acquisition of the Floridas and Louisiana. When the prospect of a war between England and Spain in relation to Nootka Sound was near, Hamilton was not in error in supposing that the wresting of her American colonies from Spain was contemplated. For Miranda, after having traversed several kingdoms of Europe, and having received from the Empress of Russia assurances of support in case of success, had repaired in haste to London. Here he opened his plans to Pitt, who, at his instance, invited several Jesuits from Italy, in order to prepare the minds of the South Americans for the contemplated revolution. The pacification of England with Spain put an end to the project, but Miranda was assured by Pitt, that Great Britain would still hold it in view.

Disappointed in this quarter, he now resorted to Paris, to unfold to bosoms warm in pursuit of freedom, his plans and his hopes,—the soldiers who had served in the United States. The idea was not new to France, always alive

to grand thoughts and bold undertakings. The philosophic essayist, Montaigne, depicting the arts, the culture, and the mild virtues of the South Americans, more than two centuries before, pointed to the reparation due to these injured peoples. Nor had their future escaped the vision of the far-seeing Montesquieu. Brissot seized the brilliant thought. He urged the employment of a body of troops then in St. Domingo. "The name of Miranda," he wrote, "is worth an army. His talents—his courage—his genius—all assure success."

Alarmed and disgusted with the excesses of revolutionary France, Miranda withheld from them his countenance. Soon after, he narrowly escaped the axe of the guillotine, and then publicly avowed in Paris the moderation of his opinions. Commissioners from the regions of America lying near the Equator now met him there; and, with their concert, he again proceeded to London, where was presented a remarkable document, stating the terms on which the aid of England was expected. Among them were these stipulations: An alliance between England, the United States, and South America, as insuring to her moderate governments, and as a counterpoise to "the destructive ambition of the French system"—The opening of navigation between the Atlantic and Pacific, by the isthmus of Panama and the lake of Nicaragua, and the guarantee of its freedom to Great Britain—The cession of the Floridas and of Eastern Louisiana to the United States in consideration of a small military aid from the United States in the establishment of their independence, and the resigning of all the Spanish islands, excepting Cuba. This document bears date the twenty-second of December, seventeen hundred ninety-seven. Early in the following month, the general terms of the agreement were arranged with Pitt; and, on the fourth of March,

Miranda addressed a despatch to Adams, in which, anticipating their rupture with France, he urged the co-operation of the United States, in securing "the absolute independence of the entire continent of the New World," and gave an outline of the contemplated form of government. With this despatch, the previous document, formally executed by certain Commissaries of South America, was transmitted.* It was followed by a communication from Miranda to Hamilton, introducing a person charged to present this despatch to the President.†

Some time after, two despatches were received by the Secretary of State from the American Ambassador at London; the former, stating the purpose of England, in case the apprehended movement of France upon Spain and Portugal should take place, to commence the execution of this plan, and to propose the co-operation of the United States; the latter, that it would not be pursued, in case Spain should be able to save herself from an overthrow, which was not thought probable; and that an expedition had been prepared to commence the revolution of South America. Pickering communicated these despatches to the President, *informing him*, that the letters were enclosed which he had sent forward—one to Hamilton, the other to Knox.‡

* Adams's Works, viii. 569. Ibid, 583.

† A paragraph of this letter (not among Hamilton's papers) is published in the Edinburgh Review, xiii. 291. "This will be delivered to you, my dear and respectable friend, by my compatriot, Don *******, *charged with despatches of the highest importance for the President of the United States*; he will inform you confidentially *what you would desire to learn on this subject.* It appears that the moment of our emancipation approaches, and that the establishment of liberty over the whole Continent of the new world is confided to us by Providence. The only danger that I foresee is the introduction of French principles, which would poison liberty in her cradle, and finish by destroying also yours." April 6th, 1798.

‡ Adams's Works, ix. 216. August 11, 1798.

Soon after the receipt of this letter from Miranda, the relations of the United States with France had assumed a most threatening aspect, and the President publicly alluded to the advantages of "a prudent and well-guarded *concert with others, exposed to common dangers;*" declaring, that "he had no hope the French republic would soon return to a sense of justice." *

Hamilton had also been raised to a high military command. The enterprise which he had long beheld at a distance in its mighty bearings, now assumed a near and a direct importance. Regions the most beautiful of earth; half a continent, whose summits, in successive grandeur, touched the skies; whose feet bathed in two mighty oceans; over whose bosom unceasing summers shed their fragrant luxuriance, wafted to the ocean by rivers of unparalleled magnificence; while beneath lay unexhausted richest ores in massive piles, and fields of jewelled wealth —to be rescued from bondage and made the abode of the virtuous joys of regulated freedom.

Spain still continued a satellite of France. With all the disposition, but without the ability to aid her by her fleet, she was nevertheless her most useful ally. The treasures of her American mines were made to contribute to the vast expenses of the French Government, and were surrendered to its use at its mere fiat.† Her ports were the resort of French privateers—her tribunals the ready instruments of French rapacity. Such was the bigoted devotion of her feeble monarch to France, and such his hatred of Great Britain, that he shed tears on receiving

* Adams's Works, ix. 219.

† Talleyrand, desiring to obtain a large amount of specie from Hamburg, offered, in payment, cedulas of the King of Spain on his officers in South America for bars and ingots of gold and silver, with safe conducts for neutral vessels to proceed to her ports and convey the specie!

information of the victory of the Nile; and menaced Portugal with war, unless she submitted to a treaty on terms imposed by the Directory. If her previously hostile conduct to the United States evinced an entire subservience to France, her recent show of a disposition to fulfil her treaty with them was a more conclusive evidence of it. At once her favorite policy appeared to be relinquished. That object she had so long perseveringly sought, the dismemberment of their western territory, as essential to the protection of her own possessions, was abandoned at a moment when the prospect of war between this country and her great ally was imminent. To what could this change of policy be ascribed, if not to the altered situation of France in the year ninety-eight, to the declining state of her European affairs—to the employment of her naval force in the Mediterranean—to the blockade of the Spanish fleet—to the powerful coalition then being formed between Austria and Russia? France, unwilling to furnish aids to Spain at so remote a point, would naturally advise her to appear to fulfil the treaty with the United States, waiting until the accomplishment of her designs in Europe should enable her to appropriate Spanish America to herself. But for the operation of such an influence, it is not possible to reconcile the immunity Spain extended, and the continued trust she reposed in her officers at New Orleans and the Natchez, with that despotism which admits of no discretion in obedience.

Contemporaneously with the concurrence of her Commissioners in the demarcation of the western limits of this country, Spain was permitting and committing acts of open hostility upon the American commerce. American vessels sailing from her ports were suffered to be captured by French privateers under the guns of her fortresses; and were condemned in those ports, as good

prizes. American seamen, carried into Spain as prisoners, were marched through it in manacles to the prisons of France, without objection or intervention. Spanish privateers were capturing American vessels, having on board the property of this Government, guarded by formal documents under the signature of the President; and their officers were consigned to dungeons.

Not only did these acts justify a resort to hostilities, but it was obvious, if open war with France should occur, by her treaty of alliance, Spain became a party to it. Thus, as a measure of defence, the United States were fully warranted in an attack upon the Spanish American possessions. The time for such an attempt appeared peculiarly propitious. Unassisted, Spain was incompetent to their defence. France could not aid her. England favored the project.

It was an enterprise worthy the best aspirations of humanity. To release South America from a colonial sway, in principle and in practice the most oppressive on earth—to enable her numerous population to form moderate governments suited to their condition—to open to the world a commerce of vast capacity, enslaved by a grasping monopoly; * to remove the only serious external danger to which the American Union was exposed;—the severance of the Western territory;—thus "to cut," as Hamilton expressed it, "the Gordian knot" of its great destinies;—to arrest the progress of the revolutionary doctrines France was then propagating in those regions; and to unite the American hemisphere in one great society of common interests and common principles against the corruptions,—the vices,—the new theories of Europe,

* Prior to the decree of 1778, "Reglamento del libre commercio," opening the trade of the Spanish Colonies to her other ports, it was carried on from *Cadiz alone*, and then by *special permissions*.

—these were objects worthy the energies of the highest genius.

Hamilton felt all the importance of this great reformation. He believed in its easy accomplishment. Ten thousand men, stationed at rallying points for the oppressed natives, was all the force he would have required, if aided by an adequate marine. With such a force, he confidently hoped, his name would descend to a grateful posterity, as the Liberator of Southern America.

Zealous as he now was for the attainment of this object, he was scrupulously careful to avoid the suspicion of having lent himself, without the assent of his Government, to the schemes of an adventurer. With this intent, he wrote to the American Ambassador at London, enclosing a letter to Miranda:

"New York, August twenty-second, 1798.—Your several letters of May twelfth, June sixth and eighth, have regularly come to hand. You will be, no doubt, fully instructed of the measures which have taken place on the part of our Government, and you will have seen in the numerous addresses to the President a confirmation of the opinion I gave you respecting the disposition of this country. From both you will have derived satisfaction, though you should not think we are *yet* where we ought now to be. But console yourself with the assurance that we are progressive in good. The indications are to my mind conclusive, that we are approaching fast to as great unanimity as any country ever experienced; and that our energies will be displayed in proportion to whatever exigencies shall arise.

"I have received several letters from General Miranda. I have written an answer to some of them, which I send you to deliver, or not, according to your estimate of what is passing in the scene where you are. Should you deem it expedient to suppress my letter, you may do it, and say as much as you think fit, on my part, in the nature of a communication through you. With regard to the enterprise in question, I wish it much to be undertaken; but I should be glad that the principal agency was in the United States, they to furnish the whole land force necessary. The command in this case would very

naturally fall upon me; and I hope I should disappoint no favorable anticipations. The independency of the separated territory, under a moderate government, with the joint guarantee of the co-operating powers, stipulating equal privileges in commerce, would be the sum of the results to be accomplished.

"Are we yet mature for this undertaking? Not quite—But we ripen fast, and it may, I think, be rapidly brought to maturity, if an efficient negotiation for the purpose is at once set on foot on this ground. Great Britain cannot alone secure the accomplishment of the object. I have some time since advised certain preliminary steps to prepare the way consistently with national character and justice. I was told they would be pursued, but I am not informed whether they have been or not."

He subsequently wrote again to King, showing that his approval of this concerted measure was founded on a full conviction that the peace he had so earnestly labored to preserve, could not be kept with France.

"The opinion in that and other of your letters concerning a *very important point*, has been acted upon by me from the very moment that it *became unequivocal* that we must have a *decisive rupture with France.*"

Hamilton's letter to Miranda was enclosed to King:

"NEW YORK, August 22, 1798.—Sir: I have lately received by duplicate your letter of the sixth of April, with the postscript of the ninth of June. The gentleman you mention in it has not made his appearance to me, nor do I know of his arrival in this country, so that I can only divine the object from the hints in your letter. The sentiments I entertain with regard to that object, have been long since in your knowledge. But I could personally have no participation in it, *unless patronized by the Government of this country.* It was my wish that matters had been ripened for a co-operation in the course of this fall, on the part of this country. But this can now scarcely be the case. The winter, however, may mature the project; and an effectual co-operation by the United States may take place. In this case I shall be happy, in my official station, to be an instrument of so good a work.

"The plan, in my opinion, ought to be,—a fleet of Great Britain, an army of the United States, a Government for the liberated territory

agreeable to both the co-operators, about which there will be no difficulty. To arrange the plan, a competent authority from Great Britain to some person here, is the best expedient. Your presence here will in this case be extremely essential. We are raising an army of about twelve thousand men. General Washington has resumed his station at the head of our armies. I am appointed second in command."

On the nineteenth of October Miranda replied, stating that Hamilton's views were approved by the British Ministry; that the land force should consist of American troops, and the marine be English—that every thing was ready, and only awaited the fiat of the President; and that an intended insurrection in South America had been deferred to await the action of the co-operating powers.

"Continue always," he closed, "my dear friend, to be the benefactor of the human race, which never more required such a supporter. Let us all reunite firmly in securing the safety of our dear country, and perhaps in snatching it from the evils which menace it. We will save the whole world, which is oscillating on the brink of an abyss."

Adams gave no countenance to the enterprise. "The bare suggestion of an alliance with Great Britain," is stated "to have materially contributed to modify the policy towards France." *

Narrow and grovelling indeed must have been the mind which could regard a concert of action of the great Anglo-Saxon race to effect an universal good with other than the largest, noblest, most elevating sympathies. The previously quoted opinion of Adams as to "a concert" with other powers, and his expectation of a war with France, compel a resort to some other solution of his opposition to this great movement, in behalf of millions enslaved. Though it would have conferred glory upon the United States, it would also have conferred glory upon Hamilton.

* Adams's Works. viii. 582. Note by his grandson, Charles Adams.

CHAPTER CXLVI.

A FEW days after receiving his commission, Hamilton was instructed to concert a plan, and to superintend its execution, of fortifying the harbor of New York. The funds being a grant from the State, the service was to be performed in concert with the Governor. He wrote to Jay:

"I do not recollect that I have had any answer to a suggestion in one of my letters respecting the employment of engineers to assist in forming the desired plan. This appears to me an essential preliminary. It is very possible, the contrary may have been said to you by persons of whose intelligence you may have a good opinion. Self-sufficiency, and a contempt of the science and experience of others are too prevailing traits of character in this country. But as far as I am to be concerned, auxiliary lights are a *sine qua non*. I do not feel myself adequate to the complicated task of an Engineer, unaided by men of more technical knowledge than myself."

The suggestion was adopted, and a plan for the defence of New York was formed. It is not found.

Urgent letters were addressed to him by members of the Cabinet, indicating the necessity of his assuming essentially the conduct of the War Department. The Head of that department could derive no aid from the President. It was important that consultations should be held preparatory to the adoption of a well-digested system, which would protect that branch of the service from the undigested and impulsive interferences of Adams.

With this view Washington and Hamilton met at Philadelphia on the tenth of November, and were subsequently joined by Pinckney. There a series of questions were propounded to the two latter. The principal points of inquiry were, the probability of an invasion of the United States by France during her war with Great Britain, where the first attack would be made? Whether France would, by exchange or other means, become possessed of the Floridas and Louisiana, the consequences of such an event, and the means of counteracting them. Questions were also submitted by the Secretary at War to Washington, respecting the apportionment of the officers and men to be raised among districts and States —whether the appointments should be made, and the recruiting commenced immediately. If the pay of the officers should be suspended—the stations and distribution of the troops—the mode of supplying the army—the quantity of cannon and military materials requisite, and the best sites for magazines. On the basis of these questions, the deliberations were held, and, after the lapse of a month, two answers were submitted by Washington. These answers were drafted by General Hamilton,* but were signed officially by the Commander-in-chief.

The first of these replies advised as a primary rule in the appointment of commissioned officers, that the relative representative population of the several States should be adopted, but that no such rule should prevail as to the rest of the army. This was in conformity with the practice of the Government in the selection of public officers, as tending both to justice and public satisfaction, by a

* "General Hamilton presents his respects to the Commander-in-chief, and sends the sketch of a letter in conformity to what passed this morning"—Nov. 13. Washington's Writings, xi. 346. This also appears from Hamilton's autograph minutes.

distribution of public honors and emoluments among the citizens of the different States, but sometimes was yielded to collateral considerations. As to the noncommissioned officers and privates, it was conceived to be both unnecessary and inexpedient to make any absolute appointment among the States.

As to the question of an immediate or deferred appointment of the officers and recruiting of the troops, and whether the pay of the officers should be suspended, it was answered, that the Act for augmenting the army was peremptory in its provisions. The bounds of Executive discretion, as to the forbearance to execute such a law, might perhaps involve an investigation, nice in its own nature, and of a kind which it is generally most prudent to avoid. The voluntary suspension of the execution of a similar law could not be justified, but by considerations of decisive cogency.

"There was nothing in the foreign relations of this country to dictate an abandonment of the policy of this act. Measures of security, suggested by the experience of accumulated hostility, were not to be abandoned because of merely probable symptoms of approaching accommodation. If such symptoms existed, *they were to be ascribed to the measures of vigor adopted by the Government*, and may be frustrated by a relaxation in those measures, affording an argument of weakness or irresolution. The authoritative declaration of the President, recently confirmed, showed that there was nothing discoverable in the conduct of France which ought to change or relax our measures of defence. Though some late occurrences rendered the prospect of an invasion less probable, or more remote; yet, duly considering at all times the rapid vicissitudes of political and military events, the extraordinary fluctuations of the contest in Europe, and the more extraordinary position of its principal nations, "it can never be wise to vary our measures of security with the continually varying aspect of its affairs." "Our safety should be placed beyond the reach of the casualties of those nations, by pursuing a steady system, organizing all our *resources*, and putting them in a state of preparation for prompt action.

Regarding the overthrow of Europe as not entirely chimerical, they ought to cultivate a spirit of self-dependence, and to endeavor by unanimity, vigilance and exertion, under the blessings of Providence, to hold the scales of their destiny in their own hands. Standing in the midst of falling empires, it should be our aim to assume a station and attitude which would preserve us from being overwhelmed in their ruins. If driven to unqualified war, frequently the most effectual mode to defend is to attack. Instances of *very great moment to the permanent interests* of the country were to be imagined which would certainly require a disciplined force, that should be raised and prepared so as to be ready for the conjuncture, whenever it shall arrive. Not to be ready then may be to lose an opportunity, which it may be difficult afterwards to retrieve."

The state of the finances, as exhibited by the Treasury Department, opposed no obstacle to this policy. Hence the whole of the officers and men ought to be immediately raised, disciplined, and paid. To accomplish this would require a year. "What may not another year produce? Happy will it be for us, if we have so much time for preparation, and ill judged indeed, if we do not make the most of it!" Under existing circumstances, it was not deemed advisable to withdraw any of the troops from the interior frontier to the seaboard.

The rest of this communication referred to the distribution of the troops, and to arrangements for the recruiting service. As to the supplies, the union of the two modes by purchase and by contract was advised, under the superintendence of a Department of supplies, uniting under one Head the two departments of Quartermaster and Commissary. The provision of arsenals, magazines, of artillery, small arms, military stores, and camp equipage, on a basis of fifty thousand men, was proposed as adequate to resist a serious invasion. The magazines to be stationed in Massachusetts, Virginia, and South Carolina.

The second letter, of the same date, gave a plan for

the organization of an army, and various important suggestions as to its efficiency, its uniform, clothing, the composition of the rations, regulation of rank, distinction by badges, rules of promotion. These suggestions were preliminary to the formation of a General Army system which Hamilton had in view, and which was successively developed in his correspondence with the military department. The destruction of the War office prevents a full exhibition of his various and extensive reflections on the art of war, and explains the fact, that his communications do not fill that large and prominent place in the military archives of this country, which his contributions to other branches of the public service are seen to occupy.

Imperfect as these materials are, they are sufficient to show, that in the short period of his command, he took a large view of the principles and conduct of a system of MILITARY ADMINISTRATION—of the functions of a GENERAL,—of the ORGANIZATION and CORRESPONDENCE of an Army—its interior economy, its formation, field exercise, movements; regulations in barracks, and in the field; the police of garrisons and of the camp—its subsistence and supplies—the issue and delivery of arms, clothing, fuel, stationery—with the measures necessary to ensure a due accountability.

Though many of his communications on these subjects bear marks of haste, they strongly indicate the grounds of his own conviction, that, if called to act in an extensive field of operations, his genius for arms would have been more distinguished than in any other of the important vocations in which it was exerted.

While these serious matters were occupying the minds of Washington, Hamilton, and Pinckney, the President's letters show his fluctuations.

The vigorous policy Hamilton had induced Congress

to adopt, was seen in the active movements of the infant Navy,—to the three frigates which had been fitted for sea being added, as he had suggested, twelve sloops of war and several cutters. The Navy could present no rivals to Adams, and he was eager to avail himself of its prowess on the ocean, as a source of popularity.

To the Secretary of the Navy he had written, on the first of October:

"The hurricanes are now passed, and there is no longer danger from them. We must sweep the West India seas, and get as many of the French seamen, as they are called, whether they are Italians, Spaniards, Germans, or negroes, as we can. Seamen are so scarce that they cannot send out large privateers." On the sixteenth, he writes to Rufus King, "our country seems to be, as we used to say in seventeen hundred and seventy-four, unanimous and firm. They are much more so now than they were then. New York and Pennsylvania were always a little *chancellantes*, but they will be kept tolerably steady. There are strong pillars in both. But, Watchman, what of the night? Where is all tending? I am weary of conjectures. Will princes ever be more wise, or people more temperate or united, or aristocrats more willing to acknowledge a superior?"

Four days after,* he requested the Secretary of State to obtain the advice of the heads of departments as to the policy of his Speech to Congress.

"One," inquiry "is, whether it will be expedient for the President to recommend to the consideration of Congress, a DECLARATION of WAR against France. This question supposes that France shall not have declared war against the United States. Otherwise, I suppose there will be no room for *a* question. Another inquiry is, whether any further proposals of negotiation can be made with safety; and whether there will be any use or advantage, in Europe or America, by uniting minds more in our favor, by any such measure. In a message to both houses of Congress, on the twenty-first day of June last, the President expressed his opinion of the impropriety of sending any

* October 20.

ministers to France, without assurances that they shall be received. In this opinion he perseveres. But the question is, whether, in the Speech, the President may not say, that in order to keep open the channels of negotiation, it is his intention to nominate a minister to the French Republic, who may be ready to embark for France, as soon as he or the President shall receive from the Directory satisfactory assurances, that he shall be received and entitled to all the prerogatives and privileges of the general law of nations; and that a minister of equal rank and powers shall be appointed and commissioned to treat with him."

Two days after, he wrote to the Secretary of War:

"There has been no plan, that I have seen, as yet formed for the maintenance of the army. One thing I know, that regiments are costly articles everywhere, and more so in this country than any other under the sun. If this nation sees a great army to maintain, without an enemy to fight, there may arise an enthusiasm that seems to be little foreseen. At present there is no more prospect of seeing a French army here than there is in heaven." *

Yet there were others beside Hamilton, and these among the confidential friends of Adams, who regarded the designs of France as demanding an array of the whole energy and power of this country. Knox, a short time before, wrote:

"I submit fully to the idea, that the period is rapidly approaching, when successful resistance, or absolute conquest, will take place. The French, with their immense force, will find some opportunity to elude the English fleets, and to sail with a formidable force to this country, either directly or circuitously by the West Indies. Their black troops from the Islands will be made a powerful instrument in the invasion of the Southern States, on the well-grounded expectation of exciting the slaves to all the enormities practised by the negroes of the Islands on their former masters." He adverted to the presence "of French Agents in New Orleans and Florida to raise the Southern Indians to

* Adams's Works, viii. 599, 606, 609, 613.

war, and also to seduce the people of Tennessee and Kentucky from their allegiance to the Union." *

Jay, at a later period, remarks to Adams:

"Various circumstances and considerations incline me to think it not improbable that their views of domination comprehend all America, both *North* and *South*; and that they wish to place the United States in a situation favorable and auxiliary to those views. Considering the state of Spain and even of Portugal, I ascribe the forbearance of France, in not attempting to conquer and disorganize them, to the obvious difficulty of embracing their American territories, until she shall, by war or by peace, have withdrawn the British fleets from the ocean, and, if possible, have rendered the United States compliant. From the representations of their agents and partisans in this country, the Directory have doubtless entertained too sanguine expectations; and from the firmness of our government and the general declarations of our people, they may perceive that their calculations have not been accurate. I nevertheless think it probable, that they will continue to be in many respects deceived, and that their efforts to deceive and seduce will continue unremitted."

Looking with a close and vigilant eye upon the conduct of France, Hamilton saw in the elevated spirit of the American people, that his efforts to rouse them had not been vain. It inspired him with the most gratifying emotions. For while the people were true to themselves, he felt in the resources of their character a strength, and in his own breast a power to combat with every difficulty. Gouvion,† who had served in the United States during the Revolution, was one of the many victims to his loyalty. Despoiled of all his resources, he contemplated seeking a refuge here.

Hamilton wrote him:

"Be assured, my dear sir, that I shall be happy to be useful to you

* Washington's Writings, xi. 536.

† The Count Latour Dupin Gouvion.

in this or any other matter. In doing so, I shall equally gratify the esteem and friendship with which you have inspired me for yourself, and that lively and affecting interest in whatever concerns Madame Gouvion, which cannot but be felt by all who had an opportunity to know her value. If it shall conduce to her and your happiness to return to this country it will certainly add to ours; and if you will, beforehand, apprise me of your resolution, when taken, and your general plan, you will find me zealous to co-operate in giving it effect.

"I would invite you to return with the more confidence from the appearance of stability in the affairs of this country, which is derived from the late happy course of the public mind. An extraordinary union among the people in the support of their own government, and in resistance to all foreign encroachment, leave nothing to be feared for our future security and prosperity. The most reasonable ideas in every respect prevail. Accept, whenever you shall come, under the roof of Mrs. Hamilton and myself, an asylum where you will be perfectly at home, until you shall have completed your arrangements for your future establishment. She joins me in cordial remembrances to Madame Gouvion and yourself."

This confidence in the stability of public affairs was not of long duration. His visit to Trenton, for the purpose of conferring with Washington, gave him a nearer view of the state of the administration. There he became more informed of the giddy, headlong impracticability of Adams, and of the effects his temper had produced, disheartening the Federalists, encouraging their opponents to counsels the most dangerous, disorganizing, desperate.

Adams, in his intercourse with those members of his Cabinet who had long enjoyed the steady regards of Washington, was as uncertain as were his political speculations. Vanity was ever indulging its vagaries, caprice its changes. Now all was confidence—next, all misgiving. The strongest affirmations and assurances were but the preludes to utter disappointment; for his conclusions were not the fruits of thought, but of emotion; and his emotions sprang rather from imagination than sentiment.

Self was the engrossing object of that imagination. Self was the source—self the centre. A sublimated sense of self was above all—dominated over all. It was above the world—beyond the world—the light of the world was darkness, unless it lustred upon himself.

His friendships—his enmities had a common measure—not in the qualities of persons, but in the degree in which those qualities affected himself. The honest, the open, the truthful—those who meant him well, could scarce approach without loss of self-respect. Thus was he the dupe of the weak, and the prey of the designing. His path was among snares and pitfalls of his own creation. Truth, solid truth, like solid ground, was too firm for his groping, unsteady step. He wearied of certainty. His mind was ever in a surge. What must have been the change to his ministers—passing from the calm of Washington's last cabinet, into such a cavern of the winds? To each Adams was different, to all alike. To the gentle delicacy of McHenry, arrogant, overbearing;—to the firm directness of Wolcott, offensively wilful;—to the eagle spirit of Pickering, suppressedly hostile. In all was a common feeling, that with him they were not in place—for they were plain, sincere, honorable men. In one person alone his reliance seemed concentred, yet even in him it was not assured,—the favorite Gerry.

Of his influence with Adams, an evidence was given at this time. The Secretary of State, in order to correct the false impressions made in Virginia by the partisans of Jefferson, had recently addressed a letter * to a person in that State, impugning the conduct of Talleyrand, and exposing that of the facile envoy from Massachusetts. Smarting under this exposure, Gerry repaired to Adams,

* "Few publications in favor of government appear to me," Ames wrote, "to have been so generally well received."

and by his advice, addressed him a letter explaining his course.

"I shall make, sir, no further comments, because I am persuaded that your excellency will be convinced of the errors pointed out; and will be disposed, in the most public and prompt manner, to do me justice; and because, I presume, that Mr. Pickering will readily promote the same measure."*

This contrived letter Adams prayed the Secretary of State to have "inserted in a public print!" Amazed at his weakness, and justly offended at this extraordinary request, the Secretary of State answered:

"I am sorry that I cannot comply with your proposition 'to have it inserted in a public print;' for I must then subjoin such remarks as will expose his quibbles and further wound his feelings. I shall go further, and display, not his pusillanimity, weakness, and meanness alone, but his *duplicity* and *treachery*. You will start at the two last words; I verily believe they are correctly applied; and that the testimonies of General Pinckney and General Marshall, (whose veracity will not be questioned,) will support the imputation. I verily believe, sir, that his conduct would warrant his impeachment; and if he should not be impeached, not his *innocence*, but *political expediency* alone, may prevent it. If Mr. Gerry should insist on the publication of his letter, let him publish it himself. I shall then take such notice of it as *truth* and the *honor* of my *country* require."

Adams then wrote to Gerry:

"My opinion, advice, and request are, that you would not publish. Your separate and secret conferences with Talleyrand, your advocating a stipulation for a loan to be paid after the war, will do no good to you or to the public. Pinckney and Marshall will attest to the correctness of the Journal, and will be believed. Indeed, I do not know that there is any thing in it that you would deny."

A few days previous to this correspondence, two let-

* Adams's Works, viii. 611–614–616. December 15, 1798.

ters were received by the President from Murray, the American Minister at the Hague. The first referred to a projected change of the rulers of Holland—the second, of the seventeenth of July, related a conversation with Pichon, formerly Secretary to Genet and Fauchet, and recently in the bureau of foreign affairs, "lamenting the unhappy quarrel with the United States," and assuring Talleyrand's solicitude for "accommodation." In this interview, a note addressed to Pichon by Talleyrand was placed in the hands of Murray. It stated the intention to put an end to a state of things

"so contrary to the interests of both countries, that he had not ceased to manifest a desire to proceed in a negotiation; that the doubts alone of Gerry as to the validity of his powers had produced delays; that, at the moment when he flattered himself with having made some progress, the Directory were informed of the laws of the United States to protect their commerce and their coasts; that this had produced a great sensation; and that thus, by incident after incident, always by the act of the government of the United States, the two nations were removed from each other, when it appeared that they wished to approach. That Gerry had made no advance; eluded discussions of the notes transmitted to him; persisted in returning, and left it to be conjectured that no authority to treat definitively was to be expected. I think," Talleyrand added, "if the American Government has the intentions that it ostensibly professes, it ought to abstain from any new provocation, and send a plenipotentiary *favorably known in France.* We shall be perhaps more of one mind than the English imagine."

The President, on these letters being deciphered for him, wrote to the Secretary of State: "The two letters in yours are important. The first has made a great impression on me." Murray, in transmitting them, stated his belief, that the object was "merely to divide and bewilder, and to relax our energy"—that "energetic measures have stunned them, and that the steady and dignified pursuit" of these measures "will attain their great end."

The importance of energetic measures had governed all the recent conferences with the Commander-in-chief. The propriety of the President's presence at the seat of government during these conferences was obvious. The Secretary of War urged it, but he urged it in vain. Adams pleaded the indisposition of his wife. Perhaps an unwillingness to confront Washington and Hamilton, after the late embarrassments as to filling the General staff of the army, and a reluctance to appear to be counselled by them, may have had an influence. "At all events, however," the President replied, "I must be at the opening of Congress, *or give up.*"

In the mean time, other influences were at work. On the day of his arrival within the waters of the United States, Gerry had written him, stating the dispositions of France to an accommodation; her willingness to receive a minister, and to adjust all differences. These views were enforced in conversations at his private residence. Logan also waited on him before the session of Congress, fresh from the Councils of France, perfumed with the flattery of Talleyrand, urging a pacification. Adams arrived at the seat of government just before Congress was about to assemble. He convened the Cabinet. Their opinions were asked and given, and a speech was prepared. On the eighth of December it was delivered by the President.

On this occasion he was accompanied by the Heads of the Departments, while Washington, Hamilton and Pinckney were seated on the right of the Speaker, and on the left, the Diplomatic Corps—an imposing spectacle.

The speech announced the termination of the negotiations with France, the particulars of which were reserved for a separate communication.

"That communication will confirm the ultimate failure of the measures which have been taken by the Government of the United States towards an amicable adjustment of the differences with that power. You will at the same time perceive that the French Government appears solicitous to impress the opinion, that it is averse to a rupture with this country, and that it has in a qualified manner declared itself willing to receive a minister from the United States for the purpose of restoring a good understanding. It is unfortunate for professions of this kind, that they should be expressed in terms which may countenance the inadmissible pretension of a right to prescribe the qualifications which a minister from the United States should possess; and that while France is asserting the existence of a disposition on her part to conciliate with sincerity the differences which have arisen, the sincerity of a like disposition on the part of the United States, of which so many demonstrative proofs have been given, should even be indirectly questioned. It is also worthy of observation, that the decree of the Directory, alleged to be intended to restrain the depredation of French cruisers on our commerce, has not given and cannot give any relief. It enjoins them to conform to all the laws of France relative to cruising and prizes, while these laws are themselves the sources of the depredations of which we have so long, so justly, and so fruitlessly complained." It stated, that intelligence of her decree, subjecting to capture neutral vessels, if any part of the cargo was of British fabric or produce—though wholly neutral property, had been lately indirectly confirmed; and while this unequivocal act of war continued, as France could only be viewed, "as a power regardless of their essential rights, and of their independence and their sovereignty, they can reconcile nothing with their interest and honor, but a firm resistance." "Hitherto, therefore, nothing is discoverable in the conduct of France which ought to change or relax our measures of defence. On the contrary, to extend and invigorate them is our true policy. We have no reason to regret that these measures have been thus far adopted and pursued; and in proportion as we enlarge our view of the portentous and incalculable situation of Europe, we shall discover new and cogent motives for the full development of our energies and resources.

"But, in demonstrating by our conduct that we do not fear war in the necessary protection of our rights and honor, we shall give no room to infer we abandon the desire of peace. It is peace that we

have uniformly and perseveringly cultivated, and harmony with France may be restored at her option. *But to send another minister without more determinate assurances that he would be received, would* BE AN ACT OF HUMILIATION, to which the United States ought not to submit. It must, therefore, be left to France to take the requisite steps. The United States will steadily observe the maxims by which they have hitherto been governed. They will respect the sacred rights of embassy, and with a sincere disposition on the part of France to desist from hostility, to make reparation for the injuries heretofore inflicted on our commerce, and to do justice in future, there will be no obstacle to the restoration of a friendly intercourse." "I deem it," he added, "a duty deliberately and solemnly to declare my opinion, that, whether we negotiate with her or not, vigorous preparations for war will be alike indispensable. These alone will give to us an equal treaty, and ensure its observance."

In this view, an increase of the Naval Establishment was recommended. The progress of the measures to fulfil the treaties with Spain and Great Britain was also stated.

The answers of both Houses were expressed in terms of great vigor and dignity, fully responsive to the views of the Executive. That of the Senate remarked upon the indignity offered on the part of the Directory, in passing by the Constitutional agents of the government and conveying insinuations impeaching its integrity, through the medium of individuals, without public character or authority. The President replied, that he had seen no real evidence of any change of system or disposition in the French Republic; treated the officious interference of unauthorized individuals as not entitled to any credit; but suggested, "whether that temerity and impertinence of individuals, affecting to interfere in public affairs, ought not to be inquired into and corrected."

The exciting cause of this violence may possibly be found in the language of a letter from the President to the Secretary of State, six weeks before:

"The object of Logan in his unauthorized embassy seems to have been to do or obtain some thing which might give opportunity for the true American character to blaze forth in the approaching elections." "Is this constitutional, for a party of opposition to send embassies to foreign nations to obtain their interference in *elections?*" *

The difference in the tone of the speech and of the reply is marked. Comparing parts of the speech with the recent letter of Hamilton to the Secretary at War, it will be found to have embodied, not merely many of the general ideas, but to have contained in most respects, the precise language of that letter, while the reply of the President is all his own.

On the twenty-eighth of December, Madison wrote to Jefferson:

"The Senate as usual perform their part with alacrity in counteracting peace by dexterous propositions to the pride and irritability of the French Government. It is pretty clear, that their answer was cooked up in the same shop with the speech. The finesse of the former, calculated to impose on the public mind here; and the virulence of the latter, still more calculated to draw from France the war which cannot safely be declared on this side, taste strongly of the genius [of that subtle partisan of England] who has contributed so much to the public misfortunes. [It is not difficult to see how Adams could be

* The editor of the Works of Adams, states, "that but for Mr. Jefferson's privity, it is not probable it" (Logan's mission) "would even then have been so unfavorably interpreted. It was the character of that gentleman to give clandestine encouragement to every movement, and to be always surprised at the effect which followed the almost inevitable disclosure of his agency. Yet there is reason to believe that Doctor Logan's representations contributed to soften the temper of the rulers in both countries. General Washington, *whose partisan feelings never ran higher* than at this time, has given his own account of his interview with Dr. Logan. It makes one of the few very lifelike pictures we have left of him." "Dr. Logan's visit to Mr. Adams took place after the date of this letter." "Time has completely vindicated *his motives from suspicion.*" Adams's Works, viii.

made a puppet, through the instrumentality of creatures around him, nor how the Senate will be managed by similar artifice.]"

On the third of January, Jefferson replied:

"The President's speech, so unlike himself in point of moderation, is supposed to have been written by the military conclave, and particularly by Hamilton. When the Senate gratuitously hint Logan to him, you see him in his reply come out in his genuine colors."

The dispositions of the two great parties of the country were again to be seen in the proceedings of Congress. The first act of legislation originated in the House of Representatives. It was a bill, subjecting to fine and imprisonment all citizens of the United States or their advisers or abettors, who should usurp the Executive authority by commencing or carrying on any correspondence with any foreign government, relating to any subsisting disputes between that government and the United States. The motives to this measure have been seen in the missions of Kosciusko and of Logan. The latter of these agents was made use of to keep up in the United States expectations of peace, and thus to paralyze the measures of the Government. His letters announced his intended return "with despatches calculated to restore harmony," and stated that "the most positive assurances had been given, that France was ready to enter into a treaty." He hastened to America in the hope of producing an impression on the proceedings of Congress, just before its session; and there made an ostentatious display of the influence he had exerted over the Councils, and of the friendly dispositions, of France. Such interferences with the legitimate organs of the Government—such assumptions of Executive powers, would, if permitted, have been fatal to its administration. The bill to punish them was warmly

debated, Gallatin and Livingston opposing, Bayard and Harper in its favor. It finally passed the House by a large majority, and the Senate with only two dissenting voices.

The same circumstances which had prompted the recommendation in the speech of the President to invigorate the means of defence, indicated the necessity of re-enacting the law of the previous session, suspending the commercial intercourse with France and her dependencies. This law had produced great effect on her few remaining Colonial possessions, and was not without its influence upon the domestic condition of France. As its chief object had been in part attained by a discontinuance of the depredations committed by some of her agents, a section was inserted in the act, which authorized the President to restore the commercial intercourse immediately with the mother country or with such other islands or ports as he should deem it safe.

A principal and more immediate motive to the grant of this discretionary power was that of opening a commerce with St. Domingo. That island, after being a scene of terrible ferocities, at last began to assume the aspect of civilization. Its local feuds had yielded to the necessity of its situation, and the authority of Toussaint, a successful chieftain, was recognized by the mass of the black population, estimated at half a million. Great Britain felt the importance of rescuing from the grasp of the Directory this fertile and extensive colony. She saw in its severance from France security to her West India possessions, and hoped a monopoly of its valuable commerce. With these views, upon the evacuation of it, she concluded a treaty, recognizing the people of Hayti as an independent nation.

Previous to a knowledge of this decisive act on the

part of England, an agent of Toussaint arrived in the United States, seeking, with great impatience, information as to the views of this Government. On the discussion of the Act suspending the intercourse with France, Nicholas moved to expunge the discretionary power confided to the President. He declared that it held out an invitation to citizens to abandon their country, and set up governments of their own; that thus to detach a colony from its government would be to root out from France any disposition she might feel to treat with them. Gallatin stated, that he had voted against this bill because he believed it would not produce the coercive effects on France which had been predicted. But it had become a law, and now to recede would betray nothing but weakness, and tend to defeat the object of all, an honorable peace. Such a measure can only be justified by a state of war, if then. It was to hold out encouragement to insurrection and rebellion. It had been stated, that they ought thus to anticipate the independence of St. Domingo. He deemed that a very problematical event. It would certainly, he said, be the interest of Great Britain to oppose an attempt of this kind; but, were it possible, he should consider it as extremely injurious to the United States. It would be to throw so many wild tigers on society. He was in favor of the abolition of slavery when it could properly be effected, but he deprecated any measure which would embody so dangerous a description of men in our neighborhood, who might visit our Southern States, and excite insurrections. He also was opposed to it, as removing to an immense distance an accommodation with France. The disasters which had happened to her fleets—her want of success in other parts,—*the determined tone assumed by all the neutral powers*, and other occurrences have rendered it more the

interest of France to treat with us than it was nine months ago. At such a time, such a measure would be most impolitic.

Otis, a recently elected member from Massachusetts, distinguished for his ready, graceful eloquence, observed: "Toussaint has been called an usurper. Have we any evidence that his conduct may not be recognized by France? Shall we now begin to examine into the legality of the powers of persons in authority in France, or in her possessions? Have we not adhered to the principle, that those who exercise the power *de facto* are those only whom we are bound to recognize? We have never questioned the legitimacy of the power exercised in France. It is now too late to change this system." Pinckney* controverted the assertions that France had shown any real disposition to do justice to the United States. "Her attempt to detach Gerry from his colleagues, he regarded as most hostile and degrading. He also denied that the independence of St. Domingo was more to be apprehended by the Southern States, than their continuance under the dominion of France. If free, we might treat with them and secure their good conduct. If subject to France and supported by her Navy, she might thence accomplish the invasion with which her unofficial agents had menaced our envoys. If free, Great Britain would monopolize their commerce, or they must become freebooters on our commerce, or seek supplies from us. Is it not our interest to encourage them in their habits of industry—to render them peaceful cultivators of the soil? As to the objection that such a power, if exerted, would be a cause of war, its effect was simply to remove restrictions, in case depredations should cease, without regard to the au-

* The late minister at London and Madrid—Thomas Pinckney.

thority which should cause their cessation." After an earnest debate and various efforts to defeat this provision, it was retained, and the bill became a law.

Another act, previously mentioned, dictated by an atrocious decree of the French Government, was the subject of much discussion. In the preceding month of October, the Directory issued an edict declaring to be a pirate, every person, either a native of or originally belonging to neutral countries, found to form part of the crews of British vessels, whether voluntarily enlisting, or impressed to serve. The British Government immediately signified to France, that the first instance of its execution would be followed by the most rigorous retaliations. A bill authorizing retaliation on French citizens passed the Senate. When it came before the House, the President was called upon to state, whether he had received any information of the suspension of this decree. His message disclosed the fact, that a second decree had passed, by which its execution had been postponed, but reminded the House that the edict of the second March, seventeen hundred ninety-seven, which subjects "explicitly and exclusively, American seamen to be treated as pirates, if found on board ships of the enemies of France, remained in force." The proceedings on this bill were deferred until the end of the session, when a motion for its indefinite postponement was rejected. On the final question, its passage was strenuously opposed by Gallatin and Livingston, and urged by Dana and Otis. It passed by a large majority.

A bill was also brought forward, granting a bounty on all French armed vessels captured by private armed vessels of the United States, of which nearly four hundred were commissioned, but it was defeated. In the course of its discussion, reference was made to the utility

of a navy as a protection against invasion. Gallatin declared, that he thought "a fleet to be neither a necessary nor a sure mean of defence. Viewed as a protection to commerce, as the advantages of commerce were a matter of calculation, the defence to be afforded becomes also a proper subject of calculation, a question of profit or loss! As the carrying trade was merely a profit to merchants, if it did not yield a profit sufficient to protect itself without expense to the nation, it was not entitled to any extraordinary protection!"

While these subjects were occupying a large share of the attention of Congress, the measures of defence, a part of which Hamilton had initiated, were acted upon. Immediately after his return from Philadelphia, Hamilton wrote to General Gunn, then a Senator and Chairman of the Committee on Military Affairs:

"I was desirous of knowing the state of your mind with regard to military service. * * * If we are to be seriously engaged in military operations, 'tis not a compliment to you to say, that you are one of the men who must be in the field. With such an enemy, we shall want men who will not *barely do their duty*, but will do it with an energy equal to all dangers."

Gunn answered:

"If I am correct, General Washington is not to take the field, but in the event of the Provisional army being called into service, you are of course not only charged with the command of the army, but in a great degree, the direction of the War Department; and, sir, you will permit me to add, that the legislative aid necessary for the support of that department, must be arranged by yourself. Have the goodness to communicate your wishes with regard to the invigoration of the measures of defence."

Hamilton replied on the twenty-second of December:

"As to the further military arrangements my ideas are these.

Considering how little has been done towards raising the force already voted, that an important tax is yet in the first stage of an essay—that a prospect of peace is again presented by the temporizing conduct of France; that serious discontents exist in parts of the country with regard to particular laws, it appears to me advisable to postpone any actual augmentation of the army beyond the provisions of the existing laws, except as to the regiment of cavalry, which I should be glad to see increased, by the addition of two troops, and by allowing it to be reunited to the complement which has been proposed by the Commander-in chief as that of the War Establishment. * * * But a considerable addition ought certainly to be made to our military supplies. The communications of the Commander-in-chief will also afford a standard for the increase in this respect as far as concerns the force to be employed in the field. There are, however, some objects of supply equally essential which were not within the view of those communications—heavy cannon for our fortifications and mortars for the use of a siege. Of the former, including those already procured and procuring, there ought not to be fewer than one thousand, from eighteen to thirty-two pounders, chiefly of twenty-fours; of the latter, including those on hand, there ought to be fifty of ten-inch calibre. This, you perceive, looks to offensive operations. If we are to engage in war, our game will be to attack where we can. France is not to be considered as separated from her ally. Tempting objects will be within our grasp. Will it not likewise be proper to renew and extend the idea of a Provisional army? The force which has been contemplated as sufficient in every event is forty thousand infantry of the line, two thousand riflemen, four thousand cavalry and four thousand artillery, making in the whole an army of fifty thousand. Why should not the Provisional army go to the extent of the difference between that number and the actual army? I think this ought to be the case, and that the President ought to be authorized immediately to nominate the officers, to remain without pay, till called into service. The arrangement can then be made with sufficient leisure for the best possible selection, and the persons designated will be employed in acquiring instruction.

"It will likewise well deserve consideration, whether provision ought not to be made for classing all persons from eighteen to forty-five inclusively, and for draughting out of them by lot the number necessary to complete the entire army of fifty thousand. In the case of invasion, the expedient of draughting must be resorted to, and it will

greatly expedite it, if there be a previous classing with a view to such an event. The measure, too, will place the country in a very imposing attitude, and will add to the motives of caution on the part of our enemies. These measures are all that appear to be advisable with regard to our military establishment under present appearances. A loan, as an auxiliary, will of course be annexed."

The inquiry had been made whether the actual force ought not to be reduced; this he thought inexpedient.*

"It will argue to our enemy that we are either very narrow in our resources, or that our jealousy of his designs are abated. Besides, that with a view to the possibility of *internal disorders* alone, the force authorized is not too considerable.

"The efficacy of Militia for suppressing such disorders is not too much to be relied upon. The experience of the Western Expedition ought not to be a guide. That was a very up-hill business. There were more than once appearances to excite alarm as to the perseverance of the troops, and it is not easy to foresee what might have been the result had there been any serious resistance. The repetition of similar exertions may be found very difficult, insomuch as to render it extremely necessary, in these precarious times, to have the Government armed with the whole force which has been voted. There are several defects in the military establishment which demand reform, as well for economy as efficiency. On these there has been an ample communication from the Commander-in-chief to the Department of War. I cannot conceive why nothing has yet gone to Congress. Certainly this cannot be much longer delayed. Will it be amiss *informally* to interrogate the minister? If the silence is persisted in, you shall know from me the objects.

"I think the act respecting the eighty thousand militia ought likewise to be revived. The effect abroad will be good, and it will likewise be so at home as the evidence of a reliance of the government on the militia. Good policy does not appear to me to require extensive appropriations for fortifications at the *present juncture*. Money can be more usefully employed in other ways. A good deal of personal examination ought to lead to a plan for fortifying three or four *cardi-*

* Hamilton to Otis, December 27, 1798.

nal points. More than this will be a misapplication of money. Secure positions for arsenals and dockyards are, in this view, a primary object.

"Your last question respecting the West India islands I shall reserve for a further communication."

CHAPTER CXLVII.

The progressive increase of the Army of the United States, steady and strenuous as was the opposition to it, is seen to have been produced by a series of emergencies. The force raised by the old Congress in seventeen hundred eighty-seven, consisted of a regiment of infantry and of one battalion of artillery, amounting to seven hundred men. This establishment was recognized in eighty-nine, adapted to the Federal Constitution; and was organized the succeeding year. Temporary and varying provisions were made, as exigencies compelled successive additions of force, until seventeen hundred ninety-six, when "the Military Establishment" was ascertained and fixed in part and imperfectly, on the plan proposed by Hamilton in the year eighty-three, that of Knox being abandoned.

It was to embrace a corps of artillerists and engineers, two companies of light dragoons, and four regiments of infantry. In the following year, the rank of major-general was abolished. An additional regiment of artillerists and engineers was added early in seventeen hundred ninety-eight, which was soon after followed by the act creating a provisional army of ten thousand men, and this by another act "to augment the army," of the sixteenth of July of the same year; laws having been passed establishing a paymaster, and subsequently, a purveyor of

supplies under the direction of the Treasury department, and for the erecting and repairing of arsenals, magazines, national armories and foundries. The consultations of the general staff previously mentioned, were in reference to the forces authorized to be raised under these Acts.

A new organization of the army had become indispensably necessary, and had been the subject of much correspondence between Hamilton and the Secretary at War. Soon after the date of the previous letter, a Report was submitted by him to Congress "On the REORGANIZATION of the Army." On comparing this report with that of Washington, drawn by Hamilton, it is seen, as to all essentials, to have been framed by an accurate transcript from it.*

The military committee of the Senate, having called for bills, Hamilton transmitted one, with a few modifications, conforming to this Report, which, on the third of March, seventeen hundred ninety-nine, became a law under the title of "An Act for the better organizing of the troops of the United States." This bill departed from the existing establishment chiefly in the increased proportion of men to officers in the infantry and cavalry. The inducements to this were stated to be greater economy and greater celerity of movement. The command of each officer being more respectable, a higher class of men would accept appointments, and the incentive to exertion would be greater. The companies would admit of a more eligible subdivision, each of a perfect front. Each battalion would be of a size judged proper for a manœuvring column in the field—being "neither too unwieldy for rapid movements, nor so small as to multiply too much the subdivisions." The disproportionate number of offi-

* Report—State Papers. Military Affairs, i. 124. Hamilton's Works, v. 165.

cers to men in the elder European systems is understood to have proceeded from a desire to increase patronage, and was imitated without consideration in the earlier establishments of this country. This was avoided, a proportion being observed adequate to the due management and command of the troops. Hamilton had proposed to abolish the rank of lieutenant-colonel as the commanding officer of a regiment, and to substitute that of colonel, for the reason, that the "term lieutenant-colonel had a relative signification without any thing in fact to which it related. It was introduced," he said, "during the war of the Revolution to facilitate exchanges of prisoners, as the then enemy united the grade of colonel with that of general. But the permanent form of our military system ought to be regulated by principle, not by the changeable and arbitrary arrangement of a particular nation." After reflection induced the attainment of the object, a reduction of officers, by abolishing the rank of colonel, since restored, and retaining the rank of lieutenant-colonel, as the commander of a regiment. The term "ensign," in accordance with this view, was changed for that of "lieutenant," as a more respectable denomination. In a subsequent organization of the army, this rank was restored, but is since abolished.

A provision was made, that when any officer shall be detached from a regiment, to serve as an aid to a General officer, or as assistant in the General staff, the place of such officer should be supplied by promotion or new appointment, but that the officer detached retain his station in his regiment and rank, and rise as though not detached. The number of regimental officers was thus kept full. "An army," Hamilton remarked, "is in many respects a machine, of which the displacement of any of the organs, if permitted to continue, injures its symmetry and energy,

and leads to disorder and weakness." While ample space was left for the selection of staff officers, a sufficient independence of their chiefs was secured to them. The grades from which they might be taken were restricted. In order to confer upon Washington the rank he had held during the war of the Revolution, it was provided, as stated, that "a Commander-in-chief of the army of the United States *shall* be appointed and commissioned by the style of GENERAL of the armies of the United States; and that the present office and title of Lieutenant-General shall thereafter be abolished." This act also provided for Major-Generals for divisions, and Brigadiers for brigades; for an Inspector-General, and a Quartermaster-General, each having the rank of Major-General; for Deputy Quartermasters-General with the rank of Lieutenant-Colonel; Division Quartermasters and Brigade Quartermasters—Deputy Inspector-Generals—division inspectors and brigade inspectors, which were to be "chosen" by each of the heads of their respective services, the Quartermaster-General and Inspector-General, with a restriction, suggested by the importance of the duties, that the Deputy Inspector-General shall be, in every case, approved by the General commanding the army to which he shall be annexed. The Adjutant-General of the army was to be *ex officio* Assistant Inspector-General, and every Deputy Inspector-General was to perform the duties of Adjutant-General in the army to which he shall be annexed. The office of Paymaster-General was created, with Deputy Paymasters, to be appointed by and to account to him.

In the communication * to the Secretary at War enclosing this bill, General Hamilton remarked:

* January 16, 1799.

"It includes only those things of a former bill (for the provisional army) which are appropriated to this object, the other parts of that bill being now in full force. The operation of the bill already sent to you, renders the repetition of several clauses in the present bill unnecessary. The aim, indeed, ought to be to have *a fundamental arrangement* which will attach of course upon all subsequent provisions of force, so that the law for every augmentation need only define the number to be raised, and the duration of service and the mode of raising. This will be more deliberately and correctly attended to in the plan of a bill which I shall begin to work upon, but which cannot be ready for a considerable time."

The feature of this bill, which, with the one then in contemplation, was intended to be the basis of the military organization of the United States, of principal consequence, is, that which confers on the chiefs of the staff the appointment and removal of their subordinates. It was consonant with his views of the urgent policy of confiding to places of high trust the requisite discretion, and of concentrating responsibility, so as to make it real and effective. This plan was departed from in the first war in which this country was involved after the enactment of this law. 'Tis of the nature of democratic institutions to concentrate suddenly, power and patronage in the hands of the Executive. In this spirit, the appointment of the subordinate staff officers, as well as of the chiefs in the Quartermaster's and Inspection departments, were given to the President, with the consent of the Senate, with the exception of the Assistant Deputy Quartermasters, who were appointed by the President alone.* Such was not Hamilton's view of the construction of the Constitution, nor of its purpose.

"The authorities," he observed, in the Federalist, "essential to the care of the common defence, are these: To raise armies; to build and

* Act to establish a Quartermaster's Department. March 28, 1812.

equip fleets; to prescribe rules for the government of both; to direct their operations; to provide for their support."* The power "to raise and support armies" and "to make rules for the government and regulation of the land forces" are among "the legislative powers," and are vested in Congress. The "command and direction" of the force, subject to the regulations of Congress, are alone confided to the President. "The President," the Constitution declares, "shall be Commander-in-chief of the Army and Navy of the United States." His authority "amounts to nothing more than the supreme command and direction of the military forces, as *first general* and *admiral* of the confederacy, while that of the British King extends to the *declaring* of war, and to the raising and *regulating* of fleets and armies, all which, by the Constitution, appertain to the Legislature." So distinct was the intention of the Convention, that his power was that of the mere "command and direction" of the national forces, that no proposal to limit them is known to have been made. Thus as well might the President interpose "to regulate the commerce of the country, as to prescribe rules and regulations for the army. He can only make such regulations, when expressly authorized so to do by law."

Notwithstanding, authority conferred upon the President by Congress, and limited to a special object, has been construed into a power for another object, while the military control, expressly given to the General commanding in chief, has been assumed by the Secretary at War.

Hamilton also prepared a bill, entitled "An Act to regulate the Medical Establishment." "I avoid," he wrote to the Secretary at War, "purposely the term 'department,' which I would reserve for the great branches of administration." This act provided for a Physician-General, an Apothecary-General, and their assistants, charged with this essential care, to be appointed as other officers of the United States. A law was likewise proposed, "giving eventual authority to the Presi-

* Federalist, No. 23. Ibid, No. 49—both by Hamilton.

dent to augment the army" in case of war or of imminent danger of invasion; and to discharge at his discretion the whole or any part of it;—also to organize volunteers, limiting the number from each State, not to exceed in the whole twenty-five thousand men. These it was made lawful for him to call forth and employ in all the cases, and to effect all the purposes, for which the militia could be employed under the act "to execute the laws of the Union, suppress insurrections, and repel invasions."

A loan of two millions of dollars was authorized to meet the necessary expenditure.

To carry into effect his suggestion of classing the MILITIA, Hamilton framed a plan for their new organization. He proposed to divide them into five classes, of which the unmarried were to compose two—One of these between eighteen and twenty-five—the other between twenty-five and forty. The married were also to be similarly classed; and the fifth class was to embrace all men between forty and fifty.—Each class to be formed into corps of infantry, artillery, and cavalry, combined into legions, to be called out in succession, as numbered, and liable to serve for a year. In case of domestic insurrection, no man able to serve was to be excused. In a foreign war a commutation was permitted. Each of these classes was subject to be called out for inspection and exercise for a limited number of days in each year. He also proposed the establishment of a system of trade with the INDIANS under the agents of government, fixing it as a principle, that every man in arms to resist or attack Indians, except in some county under the actual jurisdiction of the laws, shall be *ipso facto* liable to the rules for the government of the army. The establishment of manufactories under public authority, of cannon, muskets,

and other arms, powder, ball, and all articles of clothing, except hats and shoes, was suggested.

As an additional basis of an effective regular army, he recommended that a regiment be raised consisting of commissioned officers and persons engaged as sergeants, who were in their own corps to serve by rotation as sergeants, corporals, and privates, but out of their regiment as sergeants. He likewise soon after digested, with great care, a "Plan for the providing and issuing MILITARY SUPPLIES," including the payment of the army, by which a complete accountability was to be secured.*

Subsequently, he suggested to the Secretary at War alterations in the recruiting instructions, dividing the United States into circles, districts, and sub-districts, numbered geographically, and under different commands, which were adopted. Frequent circulars were issued by him at this time to promote discipline, prevent intemperance, discourage duelling,† and check desertion.

A question was presented by the Secretary at War

* Hamilton's Works, v. 242.

† Some years before, being consulted by a friend, he penned this note: "I trust he will feel the force of a sentiment which prudence and humanity equally dictate, that extremities ought then only to issue, when, after a fair experiment, accommodation has been found impracticable. An attention to this principle interests the characters of both the gentlemen concerned, and with them, our own; and from every consideration, as well as that of personal friendship to the parties, I sincerely wish to give it its full operation. I am convinced you are not less anxious to effect this than myself; and I trust our joint endeavors will not prove unsuccessful. I cannot conclude without making one remark. Though Mr. A. has expressed, and still entertains a desire of explanation, it would ill become him to solicit it. Whatever therefore in my expressions may seem to urge such an explanation, with the earnestness of entreaty, must be ascribed to my own feelings; and to that inclination, which every man of sensibility must feel, not to see extremities take place, if it be in his power to prevent them, or until they become an absolutely necessary sacrifice to public opinion."

to the President, which drew from Hamilton a very important comment of extensive bearing, on the appointing power of the President. A battalion had been authorized to be added to the second regiment of artillerists and engineers. In reply to an inquiry of McHenry as to the President's power to commission officers to this battalion, Adams wrote to him: *

"It is not upon the act of the third of March ultimo, that I ground the claim of an authority to appoint the officers in question, but upon the Constitution itself. Wherever there is an office that is not full, there is a vacancy, as I have ever understood the Constitution. To suppose that the President has power to appoint Judges and Ambassadors, in the recess of the Senate, and not officers of the army, is to me a distinction without a difference, and a Constitution not founded in law or sense, and very embarrassing to the public service. All such appointments, to be sure, must be nominated to the Senate at their next session, and subject to their ultimate decision. I have no doubt that it is my right and duty to make the provisional appointments."

Not satisfied with this opinion, the Secretary at War submitted the question to General Hamilton, who replied:

"After mature reflection on the subject of your letter of the twenty-sixth of last month, I am clearly of opinion, that the President has no power to make, alone, the appointment of officers to the battalion which is to be added to the second regiment of Artillerists and Engineers. In my opinion, VACANCY is a relative term, and presupposes that the office has been once filled. If so, the power to fill a vacancy is not the power to make an *original* appointment. The terms 'which may have *happened*,' † serve to confirm this construction. They imply casualty, and denote such offices as, having been once filled, have become vacant by accidental circumstances. This, at least, is the most familiar and obvious sense, and, in a matter of this kind, it could not be advisable to exercise a doubtful authority. It is clear

* April 16, 1799.

† 2d Article, Constitution, Section 2.

that, independent of the authority of a special law, the President cannot fill a vacancy which happens during a session of the Senate." *

The Attorney-General was of the opinion, that under the act referred to, the President had the power of appointment—but, on being apprised of differing views, Adams stated to the Secretary at war, "Since there appears a difference of opinion concerning the construction of the Constitution and the law, and as I see no necessity for an immediate appointment, I am content to suspend it for the present, perhaps till the meeting of the Senate." At the close of the session, in conformity with Hamilton's advice, "a special law" was passed, authorizing the President to fill these vacancies.

Much opposition to the act for an EVENTUAL army had been shown. As the operation of it was only contingent, it was less earnest than the hostility to the bill for the augmentation of the navy. It is seen, that Hamilton had advised an increase of the Marine to six ships of the line, twelve frigates, and twenty-four sloops of war. Cabot had declined the office of Secretary of the Navy, and Stoddert was appointed. In a well-drawn report, he proposed to add twelve ships of the line and the number of frigates and smaller vessels Hamilton had advised. A bill was passed directing six seventy-fours and six sloops of war to be built, and the force of the existing smaller vessels to be increased. Laws were also enacted for the establishment of docks, for the purchase of timber, and for the government of the Navy. A strenuous opposition was made to the proposed increase of the Navy, in which Gallatin took the lead. But it was with little effect. Public favor had been early directed towards a National Marine, which was increased by several recent gallant ex-

* Hamilton's Works, v. 255. May 3, 1799.

ploits, and by the extensive benefits which the American commerce had already derived from it. The protection the commerce had received was ascertained to have exceeded all the expenses of the Naval Establishment.

During the progress of the bill for the augmentation of the Army, Gallatin sought to limit the interest on the contemplated loan to six per cent. This limitation was rejected. If the value of money were higher, such a restriction would have prevented its being obtained. If required to repel an invasion, that was not a time to chaffer as to its price. Jefferson inculpated the Federalists for raising a loan at an "*usurious*" interest of eight per cent. It will be seen that every effort to obtain it at a less rate was unsuccessfully made. The fact, that after a short interval, he gave his sanction to a loan at the same rate of interest, payable abroad, and when there was no menace of war, ought not to be overlooked.

Hamilton had foreseen in the course of the preceding summer the probability of a difficulty in borrowing, and suggested an expedient.

"No one," he wrote to the Secretary of the Treasury, "knows better than yourself how difficult and oppressive is the collection even of taxes very moderate in their amount, if there is a defective circulation. According to all the phenomena which fall under my notice, this is our case in the interior part of the country. Again: Individual capitals, and consequently the facility of direct loans, is not very extensive in the United States. The banks can only go a certain length, and must not be forced. Yet Government will stand in need of large anticipations. For these and other reasons which I have thought well of, I have come to a conclusion, that our Treasury ought to raise up a circulation of its own—I mean by the issuing of TREASURY NOTES, payable some on demand, others at different periods from very short to pretty considerable—at first having but little time to run. This appears to me an expedient equally necessary to keep the circulation full, and to facilitate the anticipations which government will certainly need. By beginning early, the public eye will be familiarized, and

as emergencies press, it will be easy to enlarge without hazard to credit. Think well of the suggestion, and do not discard it without perceiving well a better substitute."

No necessity had existed to raise the loan of five millions authorized at the previous session of Congress. This amount being now required, Wolcott informed Hamilton that, though small sums might be obtained, by the gradual sale of a seven per cent. stock, there was no certainty that the requisite sum could be had under eight per cent. He requested him to ascertain the correctness of this opinion.

Hamilton stated, that, after

"embracing every opportunity to obtain light on the subject of a loan, his research had been essentially fruitless. Opinions are as various as they are vague. You must therefore conjecture, and you ought to act on the sure side for selling the loan. I retain the opinion that it ought to be upon eight per cent. interest; the capital to be fixed for ten years, and then to become redeemable at pleasure—one per cent. to be appropriated cotemporarily as a purchasing fund for sinking the principal—and the loan to be open for competition for the entire or any less sum, time enough to let in European bidders. The true principle is to get as good terms as possible for the United States, exclusive of local considerations, which can only have a temporary and illusory operation. The stock will find its way to its proper market, wherever it may be first sold." *

A loan of five millions was raised at eight per cent., under circumstances strongly indicative of confidence in the stability of the public credit. The consequences of a failure in raising this loan seem not to have been weighed by those who inveighed against its terms.

* The income from imports declined from the product of the revenue year ending September 30, 1798, of $7,405,000 to $6,437,000, ending September 30, 1799; while the *internal* revenues rose during the same period from $585,000 to $773,000.

While Hamilton was thus exerting his various talents for the public welfare, sacrificing his private resources, and worn down by ill health, the consequence of his unwearied professional and official labors, Jefferson's correspondence discloses, in strong contrast, his occupations. Washington remained at Philadelphia until the fourteenth of December. Though Congress had been in session since the third of this month, and important as were its deliberations, Jefferson did not take his seat at the head of the Senate until the twenty-fourth. From the time of the publication of his letter to Mazzei in the United States, he had passed and repassed Mount Vernon without, as had been his practice, paying his respects to Washington. From this fact, the probability is, that he continued absent from Philadelphia to avoid a public personal manifestation by the late President of the estimation in which he now held him.

The letters of Jefferson show that he had not been idle in the dissemination of calumnies and distrusts as to the men whom his ambition execrated. They show more —the progress of his mind up to the period when he began to organize a conspiracy against the Government, of which he was the second officer. At first he is seen to hesitate. Taylor, a leading member of the Virginia Legislature, had declared, that "it was not unwise now to estimate the separate mass of Virginia and North Carolina, with a view to their *separate existence.*" Jefferson wrote him in early summer:

"It is true, that we are completely under the saddle of Massachusetts and Connecticut, and that they ride us very hard, cruelly insulting our feelings, as well as exhausting our strength and subsistence." But still he dissuaded any extreme measure. "If on a temporary superiority of one party, the other is to resort to a scission of the Union, no federal government can ever exist. * * * If we reduce our Union to Virginia and North Carolina, immediately the conflict will be

established between the representatives of these two States, and they will end by breaking into their simple units. * * * Seeing that we must have somebody to quarrel with, I had rather keep our New England associates for that purpose, than to see our bickerings transferred to others. They are circumscribed within such narrow limits, and their population so full, that their numbers will ever be the minority, and they are marked, like the Jews, with such a perversity of character, as to constitute, from that circumstance, the natural division of our parties."

After Congress had adjourned, and partial measures adapted to the exigency of public affairs had been taken, he denounces his opponents as the "Maratists of the day," repeats the charge he had embodied in his letter to Mazzei, but subsequently endeavored to explain away, "that they were 'manœuvring' the people into a form of government, the principal branches of which may be beyond their control," * pronounces the Alien and Sedition laws "an experiment on the American mind, to see how far it will bear an avowed violation of the Constitution."

"If this goes down," he said,† "we shall immediately see attempted another act of Congress, declaring that the President shall continue in office during life, reserving to another occasion the transfer of the succession to his heirs, and the establishment of the Senate for life. This may be the aim of the Oliverians, while Monk and the Cavaliers (who are perhaps the strongest) may be playing their game for the restoration of his most gracious majesty George the Third. That these things are in contemplation I have no doubt, nor can I be confident of their failure after the dupery of which our countrymen have shown themselves susceptible."

Such was the opinion which he entertained of his countrymen. What was that dupery? Indignation against a demand of tribute attended with circumstances

* Tucker's Life of Jefferson.

† Jefferson to A. H. Rowan. Jefferson's Works, iii. 402

of unexampled insult, amidst depredations and rapine, but which he chose to designate as the "X. Y. Z. fever."

The indignation of the people, thus derided, was full of alarm to him. Should a war with France ensue, all his hopes would be dashed. He began now to look with less reluctance to a severance of the Union, and to prepare for it; but he writes with a faltering hand. Taylor had again expressed strong opinions. Jefferson replied late in the autumn, when the session of the Virginia Legislature was about again to open:

"There are many considerations *dehors* of the State, which will occur to you without enumeration. I should not apprehend them if *all were sound within.*"

He looks to the effect of taxation on the popular feeling as the remedy, and deprecates the power of obtaining the means of self-defence by the use of public credit.

"I wish it were possible to obtain a single amendment to the Constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of the Constitution; *I mean an additional article, taking from the federal government the power of borrowing.*" *

Then passing to the topic which had been previously presented to his mind by Taylor, a severance of the Union, he observes, "For the *present*, I should be for resolving the Alien and Sedition laws to be against the

* He wrote from Paris to Washington, May 2, 1788: "The English credit is the first, because they never open a loan without laying and appropriating taxes, &c. This country" (France) "is among the lowest in point of credit—ours stands *in hope* only." "I am anxious about every thing which may affect our credit. My wish would be to possess it in the highest degree, but to use it little. Were we without credit we might be crushed by a nation of much inferior resources, but possessing higher credit." "It remains, that we cultivate our credit with the utmost attention."

Constitution and merely *void*, and for addressing the other States to obtain similar declarations; and I would not do any thing *at this moment* which should commit us further, but reserve ourselves to shape *our future measures* or no measures, by the events which may happen."

Jefferson had long exerted a powerful influence over Kentucky, which Madison early represented as "generally adverse" to the Union. Garrard was Governor of that State. Its Legislature assembled in November, and was addressed by him in a speech well adapted to prepare it for the resolutions which followed. Its attention was directed by him to sundry acts of the Federal legislature, which, he said, had violated the Constitution of the United States, had vested the President with high and dangerous powers, and intrenched upon the prerogative of the individual States. He then called upon them to declare their attachment to the Federal Constitution, but to protest "against all unconstitutional laws and impolitic proceedings, tempering the bold firmness of freemen with that moderation which indicates a love of tranquillity." This recommendation resulted in the passage of what are familiarly known as "the Kentucky Resolutions."

The first of these resolves declared, that the States were united by a *compact* under the title of a Constitution. That "to this compact each State acceded, *as a State* and is an integral party, its co-States forming, as to itself, the other party." "That the Government created by this compact was not made the exclusive *judge* of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, *each party* has *an equal right to judge for itself*, as *well of infractions as of the mode and measure of redress.*"

On this principle, the remaining resolutions denounced the Alien and Sedition laws, and pronounced them "void and of no effect"—declared, that the construction applied by the General Government to those parts of the Constitution which delegate to Congress a power "to lay and collect taxes, duties, imposts and excises to pay the debts and provide for the common defence and general welfare; and to make all laws necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution;" proclaimed, that they would "tamely submit to undelegated and consequently unlimited powers in no man or body of men on earth; that in cases of an abuse of the delegated powers, the members of the General Government being chosen by the people would be the constitutional remedy; but where powers are assumed which have not been delegated, a NULLIFICATION of the act is the right remedy; and that every State has a natural right, in cases not within the compact, to nullify, of their own authority, all assumptions of power by others within their limits." They declared, that the Government which had been conferred on the President, and which he had assented to and accepted over aliens was "a tyranny;" and called upon the co-States, "recurring to their natural rights in cases not made Federal, to concur in declaring those acts void and OF NO force, and each to take measures of its own for providing that neither these acts, nor any other of the General Government not plainly and intentionally authorized by the Constitution shall be exercised within their respective limits." To carry these resolutions into effect, and to give to the procedure an apparent sanction in the popular proceedings anticipatory of the Revolution, a

"COMMITTEE of Conference and CORRESPONDENCE" with the other States, was directed to be appointed.

The mover of these Resolutions—George Nicholas, started back from the precipice to which he had been led. Retaining the declaratory part of these resolutions, he abandoned the two last which contemplated action—substituting the impotent recommendation, that the resolutions should be presented to Congress by the senators and representatives of Kentucky—who were directed to "use their best endeavors to procure, at the next session, a *repeal* of the aforesaid unconstitutional and obnoxious acts," and that the Governor should transmit them to the other States to obtain their concurrence in the declarations of this legislature.

It is obvious had all the Resolutions at first presented been adopted by other States, this great Union would have been dissolved.*

It is seen to have been the policy and practice of Jefferson to urge his partisans forward to extremes and to throw upon them the hazards, while he stood back in a sheltered irresponsibility, watching and waiting the issues. More than usual caution was observed by him in this instance, for he felt that these resolves were, in their spirit, little short of treason to the nation; and that the first overt act would subject him to its penalties. That he was fully aware of their nature is shown by the fact, that a period of twenty-three years elapsed, before he confidentially acknowledged himself, to be the author of them. This acknowledgment was made to the son of his accom-

* In 1833, the legislature of Kentucky formally disavowed the doctrines in these resolutions—declaring that the power of repeal was in Congress;—of exposition in the Judiciary; and, "that no State of this Union has any constitutional right or power to nullify any such enactment" (by Congress) "or treaty, or to contravene them, or obstruct their execution."

plice, who, he says, undertook to introduce them to the legislature of Kentucky "with a *solemn assurance*, which" he "*strictly required*, that it *should not be known from what quarter they came.* I drew and delivered them to him, and in keeping their origin secret, he fulfilled his pledge of honor. Some years after this, Colonel Nicholas asked me, if I would have any objection to its being known that I had drawn them. I pointedly enjoined, that it should not." *

That Jefferson had no predilection to the Constitution of the United States has been previously shown, nor as a government of authority over the States or over the people did he ever value it, unless when the government was in his own hands. He would have denied to it the power of raising an internal revenue—and, when out of office, "the power of borrowing;" he had assumed to himself the power of foreign negotiation when Vice President;—affrighted for his own safety and that of his partisans, he had urged an act of *premunire* by Virginia, thereby to exclude from the citizens of that State, under "pain of life or limb" an exercise of the judicial powers of the General Government, as being "a *foreign jurisdiction;*" a State law for the special selection of juries; and he now is beheld arrogating to each separate State, the final and independent determination of the constitutionality and binding force "within its limits," of the supreme laws of the whole nation. Justly may it be said, that never were the spirit of intolerance and the spirit of usurpation, coupled with an ever present artful timidity, † more man-

* Jefferson's Works, iv. 344. Dec. 11, 1821. The consultation, he states, as to these resolves was with the two brothers Nicholas, and he adds, "I think Mr. Madison was either with us or consulted, but my memory is uncertain as to minute details."

† Randall, ii. 413. "Mr. Jefferson and some of his friends were led to be-

ifest in any demagogue, whose witchings and whose weapons were his words.

lieve, by the information they received, that the Logan affair would be made a cause or an excuse for attempting to bring him *under the pains and penalties* of the Sedition law on the first practicable occasion."—Ibid. 418. "These feelings did not die away very soon. We find Mr. Jefferson, repeatedly in letters, for some months after that, to Smith," (Aug. 1798,) "carrying the idea that *he*, and more particularly *his correspondence*, are watched to find grounds for *a prosecution*."

CHAPTER CXLVIII.

The consultation which resulted in the Resolves of Kentucky contemplated the co-operation of Virginia, the "cordial and intimately confidential sympathy" of which States is mentioned by Jefferson. Nicholas had been his instrument in the former of these States, John Taylor he has been seen stimulating to bring forward similar measures in the latter. In a mind which could calmly contemplate the highest and most comprehensive of all political crimes, a forced rupture of this great Union, such a suggestion would meet with no obstacles. The task of presenting them to the Legislature of Virginia was readily assumed and performed by Taylor.

As the author of these disorganizing resolves could not be concealed—they were from the pen of Madison,—they were couched in terms artfully framed together to disguise their real objects; but evincing a spirit, and a purpose, and furnishing a precedent, following which, this great Union has been much imperilled. This series of Resolves declared a firm resolution to defend the Constitution against every aggression, foreign or domestic—avowed attachment to the Union, and asserted the duty of watching over and opposing every infraction of its principles. They proclaimed, that Virginia viewed the powers of the General Government as resulting from

a *compact* to which the STATES were parties—as no further valid than they are authorized by the grants enumerated in that compact; and in case of a deliberate, palpable, and dangerous exercise of powers not so granted, the right and duty of the STATES, as parties thereto, to *interpose for arresting the progress of the evil.* A spirit, they averred, had in sundry instances been manifested by the Federal government to enlarge its powers by forced constructions of the Constitution; to expound general phrases, and to destroy the meaning and effect of the particular enumeration, so as to consolidate the STATES by degrees into one government, the obvious tendency and inevitable consequence of which would be to transform the present Republican system of the United States into an absolute, or, at best, a mixed monarchy.

They protested against the palpable and alarming infractions of the Constitution in the Alien and Sedition laws—the first, exercising a power nowhere delegated to the Federal government, and, by uniting legislative and judicial powers to those of the Executive, subverting the general principles of free government, and the particular organization, and positive provisions of the Constitution; the other, in like manner, exercising a power not delegated by the Constitution, but expressly and positively forbidden by one of its amendments—a power which ought, more than any other, to produce general alarm, because levelled against the right of freely examining public characters and measures, and of free communication among the people therein.

For these reasons, Virginia appealed solemnly to the other States, "to concur in declaring, as she thereby declared, those acts unconstitutional; and that the *necessary* and proper *measures* will be taken by each State for cooperating with her in maintaining unimpaired the authori-

ties, rights, and liberties reserved to the States respectively or to the people." There is in these resolutions an intermingling of truth and falsehood,* of incontrovertible propositions and vague deductions, of broad assertions and cautious reserves, highly characteristic of their author. A declaration of "a firm resolution to maintain and defend the Constitution" is the affirmance of an intention to perform an obvious duty; but when made at the time it was made, and when intended, as it was intended, to palsy the arm of defence the administration had raised; and to excite a belief that the Constitution was in danger, it can only be regarded as a criminal attempt to excite false and disorganizing alarms. The avowal of a right in a STATE to interpose for the purpose of arresting deliberate, palpable, and dangerous exercises of powers not granted by the Constitution, if intended to mean the extreme right of revolution in the people against flagrant usurpations, cannot be controverted; but as implying the right in a STATE to judge what is such exercise of power, and thus to withdraw the judgment from the National Judiciary;—to interpose its will against a law of the whole Republic, is a doctrine at war with each and all of the great powers for which the sovereign people of the United States proclaimed, in the preamble of the Constitution, it was "ordained and established." The laws of the Union would thus cease to be "supreme laws." The powers of the Constitution, acting as it was intended to act upon individuals, would cease to be sovereign. The Constitution would no longer be "a Constitution of GOVERNMENT." "It is an idea not only

* "It consists," Hume observes of the Remonstrance, "of many gross falsehoods intermingled with some evident truths. Malignant insinuations are joined to open invectives, loud complaints of the past accompanied with jealous prognostications of the future."

at war with this government, but with all government," was the just remark of Marshall.

A letter from Washington to Lafayette, who contemplated a visit to the United States, written the day after these resolutions passed,* exhibits his view of the authors of them. Adverting to the existing state of things, he wrote:

"The sum of them may be given in a few words, and it amounts to this. That a party exists in the United States, formed by a combination of causes, which oppose the Government in all its measures, and are determined, as all their conduct evinces, by clogging its wheels indirectly, *to change the nature of it*, and to *subvert the Constitution*. To effect this, no means which have a tendency to accomplish their purposes are left unessayed. The friends of Government, who are anxious to maintain its neutrality, and to preserve the country in peace, and adopt measures to secure these objects, are charged by them as being monarchists, aristocrats, and infractors of the Constitution, which, according to their interpretation of it, would be a mere cipher. They arrogated to themselves the sole merit of being the friends of France, when, in fact, they had no more regard for that nation than for the Grand Turk, further than their own views were promoted by it; denouncing those who differed in opinion (whose principles are purely American, and whose sole view was to observe a strict neutrality,) as acting under British influence; and being directed by her counsels, or as being her pensioners. This is but a short sketch of what requires much time to illustrate; and is given with no other view, than to show you what would be your situation here at this crisis, under such circumstances as it unfolds. * * * Neutrality was not the point at which France was aiming; for, whilst they were crying Peace! Peace! and pretending that they did not wish us to be embroiled in their quarrel with Great Britain, they were pursuing measures in *this country* so repugnant to its sovereignty, and so incompatible with every principle of neutrality, as must inevitably have produced a war with the latter. And when they found that the Government here was resolved to adhere steadily to its plan of neutrality, their next step was to destroy the confidence of the people in it, and

* They passed December 24, 1798.

to separate them from it; for which purpose their diplomatic agents were specially instructed; and, in the attempt, were aided by inimical characters among ourselves. Not, as I observed before, because they loved France more than any other nation, but because it was an instrument to facilitate *the destruction* of their own Government. * * * No doubt remains on this side of the water, that to the representations of, and encouragement given by these people, is to be ascribed, in a great measure, the infractions of our treaty with France; her violation of the laws of nations, disregard of justice, and even of sound policy." He added, "if the Directory are sincere in their desire of accommodation, let them evidence it by actions; for words, unaccompanied therewith, will not be much regarded now. I would pledge myself, that the Government and people of the United States will meet them heart and hand at a fair negotiation; having no wish more ardent, than to live in peace with all the world, provided they are suffered to remain undisturbed in their just rights. * * * It has been the policy of France, and that of the opposition party among ourselves, to inculcate a belief, that all those who have exerted themselves to keep this country at peace, did it from an overweening attachment to Great Britain. But it is a solemn truth, and you may count upon it, that it is *void of foundation*, and propagated for no other purpose, than to excite popular clamor against those whose aim was peace, and whom they wished out of their way.

"After my valedictory address to the people of the United States, you would no doubt be somewhat surprised to hear, that I had again consented to gird on the sword. But, having struggled eight or nine years against the invasion of our rights by one power, and to establish our independence of it, I could not remain an unconcerned spectator of the attempt of another power to accomplish the same object, though in a different way, with less pretensions; indeed, without any at all."

Such were the sentiments of the Father of his Country. When, amid the mazes in which the artifices of Jefferson, Madison, and their compeers, have endeavored to involve the early history of this Republic, the mind becomes perplexed and warped, let this earnest and most truthful view by him, whom none can doubt, be recurred to.

Washington's recent intercourse with the public men at Philadelphia had produced a strong impression on his mind. There, reviewing the early scenes of his administration, he traced the artifices which had stayed his decisions, the false colorings which had been given to events, the prejudices with which he had been compelled to combat. There, in a full disclosure of his feelings, he depicted the abhorrence Jefferson's duplicity had excited in his bosom, and expressed his full unbounded confidence in Hamilton.

At the close of a long interview, Washington remarked, "I regard him as the greatest hypocrite I have ever met with, and as my most decided enemy." *

While at Philadelphia, Washington wrote to a friend who had declared himself against the Alien and Sedition laws, advising him

"to consider to what lengths a certain description of men in our country have already driven, and seem resolved further to drive matters, and then ask themselves if it is not time, and expedient to resort to protecting laws against aliens, (for citizens you certainly know are not affected by that law,) who acknowledge no allegiance to this country, and in many instances are sent among us, as there is the best circumstantial evidence to prove, for the express purpose of poisoning the minds of our people, and sowing dissensions among them, in order to alienate their affections from the government of their choice, thereby endeavoring to dissolve the Union, and of course the fair and happy prospects which were unfolding to our view from the Revolution."

He also wrote to Charles Carroll. After approving the measures of Government, and wishing they had been more energetic, he said:

"Yet I am not without hope, mad and intoxicated as the French are, that they will pause before they take the last step. That they

* Relation of a statement made to him by General Hamilton—by Isaac Bronson.

have been deceived in their calculations on the division of the people, and the powerful support they expected from their party, is reduced to a certainty, though it is somewhat equivocal still, whether that party, who HAVE BEEN THE CURSE OF THEIR COUNTRY and the source of the expenses we have to encounter, may not be able to continue their delusion. *What a pity it is, the expense could not be taxed on them.*"

Returning to Virginia, he resolved to break down the faction. On receiving a defence of the Alien and Sedition laws, he wrote to his nephew: *

"But I do not believe that any thing contained in it or in any other writing will produce the least change in the conduct of the leaders of the opposition to the General Government. They have points to carry, from which no reasoning, no inconsistency of conduct, no absurdity, can divert them. If, however, such writings should produce conviction in the minds of those who have hitherto placed faith in their assertions, it will be a fortunate event for this country."

To a near neighbor he remarked:

"Notwithstanding the spirit of the people is so animated, that party among us, which have been uniform in their opposition to all the measures of government—in short, to every act either of the Executive or legislative authority, which seemed to be calculated to defeat French usurpations, and to lessen the influence of that nation in our country, hang upon and clog its wheels, as much as in them lies; and with a rancor and virulence, which is scarcely to be conceived, torturing every act by unnatural construction, into a design to violate the Constitution, introduce monarchy, and to establish an aristocracy. * * * In what such a spirit and such proceedings (those of Virginia and Kentucky) will issue, is beyond the reach of short-sighted man to predict with any degree of certainty. I hope well, because I have always believed and trusted that Providence which has carried us through a long and painful war with one of the most powerful nations of Europe, will not suffer the discontented amongst ourselves to produce more than a

* Bushrod Washington, a Justice of the Supreme Court of the United States—one of the most accomplished and ablest jurists this country has produced. See an exquisite, most discriminating sketch of his judicial character, entitled, "Bushrod Washington," from the pen of Horace Binney.

temporary interruption to the permanent peace and happiness of this rising empire.

"That they have been the cause of our present disquietude, and the means of stimulating, (and by misrepresenting the sentiments of the mass of the citizens of this country,) the Directory of France to unwarrantable acts, not from more real affection to the nation than others possess, but to facilitate the DESIGN OF SUBVERTING THEIR OWN GOVERNMENT, I have no more doubt, than that I am now in the act of writing this letter." *

Washington now opened a correspondence with Patrick Henry:

"It would be," he said, "a waste of time to attempt to bring to the view of a person of your observation and discernment the endeavors of a certain party among us to disquiet the public mind with groundless alarms, to arraign every act of the administration, to set the people at variance with their Government, and to embarrass all its measures. Equally useless would it be to predict what must be the inevitable consequences of such a policy, if it cannot be arrested. One of the reasons assigned (for their success) is that the most respectable and best qualified characters among us will not come forward. But at such a crisis as this, when every thing dear and valuable to us is assailed, when *a party hangs upon the wheels of government as a dead weight, opposing every measure that is calculated for defence and self-preservation, abetting the nefarious views of another nation upon our*

* Col. Taylor, a Federalist of high character in Virginia, asked his advice as to his acceptance of a commission in the army. Washington replied, "However desirous I might have been of seeing you in that line, candor requires that I should declare, that under your statement of the circumstances of the case, I am obliged to believe that your services in the *civil line*, in the present crisis of our affairs and the temper in which *this State* in particular appears to be, (if it be fair to form a judgment from the acts of its legislature,) would be more important. The first is contingent, of course may or may not be called for, *according to our doings in the latter.* The *second is in existence* and requires the *active* (and I will venture to add) the *immediate* and *unremitting* exertions of the friends of order and good government, to prevent the evils in which it is but too apparent another description of men, among us, are endeavoring to involve the United States." Feb. 12th, 1799.

rights, preferring, as long as they dare contend openly against the spirit and resentment of the people, *the interest of France to the welfare of their own country*, justifying the former at the expense of the latter, when every act of their own government is tortured, by constructions they will not bear, into attempts to infringe and trample upon the Constitution with a view to introduce monarchy, when the most unceasing and earnest exertions which were making to maintain a neutrality, proclaimed by the Executive, approved unequivocally by Congress, by the State Legislatures, nay by the people themselves in various meetings, and to preserve the country in peace, are charged with being measures calculated to favor Great Britain at the expense of France; and all those who had any agency in it are accused of being under the influence of the former, and her pensioners; when measures are systematically and pertinaciously pursued, *which must eventually dissolve the Union or produce coercion;* I say, when these things have become so obvious, ought characters who are best able to rescue their countrymen from impending evil to remain at home?

"Vain will it be to look for peace and happiness, or for the security of liberty and property, if CIVIL DISCORD should ensue. And what else can result from the policy of those among us, who, by all the measures in their power, are driving matters to extremity, if they cannot be counteracted effectually?

"I come now to the object of my letter, which is to express a hope and an earnest wish, that you would come forward at the ensuing elections (if not for Congress) as a candidate for representative in the General Assembly of this Commonwealth. Your weight of character and influence would be a bulwark against such dangerous sentiments. It would be a rallying point for the timid and an attraction of the wavering. In a word, I conceive it to be of immense importance, at this crisis, that you should be there; and I would fain hope, that all minor considerations will be made to yield to the measure."

Patrick Henry felt the value and the importance of this solemn appeal. He appeared before the people, and addressed them with a power and an eloquence worthy his great fame, and was subsequently elected to the Assembly by a commanding majority. Death prevented him from taking his seat in the Legislature of Virginia

where would have been presented the extraordinary spectacle of the most powerful adversary of the Constitution, dismissing all his early prejudices, and contending successfully for its supremacy with Madison, once among the most efficient of its advocates, then an unrelenting, insidious opponent.

A letter of Madison to Jefferson, written on the twenty-ninth of December, four days after the Virginia resolutions passed, can leave little doubt that their theory originated with him.*

"I have not seen," he writes, "the result of the discussions in Richmond on the Alien and Sedition laws. It is to be feared their zeal may forget some considerations which ought to temper their proceedings. Have you ever considered thoroughly the distinction between the power of the *State* and that of the *legislature*, on questions relating to the Federal *pact*? On the supposition that the former is clearly the ultimate judge of infractions, it does not follow that the latter is the legitimate organ, especially as a Convention was the organ by which the compact was made. This was a reason of great weight for using general expressions, that would leave to other States a choice of all the modes possible of concurring in the substance, and would shield the General Assembly against the charge of usurpation in the very act of protesting against the usurpations of Congress."

The day after this letter, Washington wrote to Marshall:

"The Alien and Sedition laws having employed many pens, and we hear, a number of tongues in the Assembly of this State, the latter I understand to a very pernicious purpose, I send you the productions of Judge Addison on this subject. My opinion is, that if this or other writings flashed conviction as clear as the sun in its meridian brightness, it would produce no effect on the conduct of the leaders of the opposition, who have points to carry from which nothing will divert them in the prosecution. I wish success to your election most sin-

* Randall, ii. 454, states: "They were drafted by Madison, as he avows in his later correspondence."

cerely; and if it should fail, I shall not easily forgive myself for being urgent with you to take a poll."

A letter from Hamilton to Lafayette, of this period,* shows how desirous he was in concurrence with Washington, in the midst of measures of national defence and protection, for an adjustment of the difficulties with France:

"I have been made happy, my dear friend, by the receipt of your letter of the twelfth of August last. No explanation of your political principles was necessary to satisfy me of the perfect consistency and purity of your conduct. The interpretation may always be left to my attachment for you. Whatever differences of opinion may on any occasion exist between us, can never lessen my conviction of the goodness both of your head and heart. I expect from you a return of this sentiment as far as concerns the heart. 'Tis needless to detail to you my political tenets. I shall only say with Montesquieu, that a government must be fitted to a nation, as much as a coat to an individual, and consequently that what may be good at Philadelphia may be bad at Paris, and ridiculous at St. Petersburgh.

"I join with you in regretting the misunderstandings between our two countries. You will have seen by the President's Speech, that a door is again opened for terminating them amicably; and you may be assured that we are sincere, and that it is in the power of France, by reparation to our merchants for past injury, and the stipulation of justice in future, to put an end to the controversy. But I do not like much the idea of your being implicated in the affair, lest you should be compromitted in the opinion of one or the other of the parties. It is my opinion that it is best for you to stand aloof. Neither have I abandoned the idea that 'tis most advisable for you to remain in Europe till the difference is adjusted. It would be very difficult for you here to steer a course which would not place you in a party, and remove you from the broad ground which you now occupy in *all* the hearts of all. It is a favorite point with me, that you shall find in the universal regard of this country all the consolations which the loss of your own (for so I consider it) may render requisite. Believe me always your very cordial, faithful friend."

* Hamilton's Works, vi. 388. January 6, 1799.

While exhibiting a strong desire for quiet in the foreign relations of the country, Hamilton had been waiting a development of the policy of the leaders of the opposition. The serious shape that policy had assumed, at last called from him this letter to Sedgewick:*

"What, my dear sir, are you going to do with Virginia? This is a very serious business, which will call for all the wisdom and firmness of the Government. The following are the ideas which occur to me on the occasion. The first thing in all great operations of such a Government as ours is to secure the opinion of the people. To this end, the proceedings of Virginia and Kentucky with the two laws complained of should be referred to a special committee. That committee should make a report, exhibiting, with great luminousness and particularity, the reasons which support the Constitutionality and expediency of those laws, the tendency of the doctrines advanced by Virginia and Kentucky to DESTROY THE CONSTITUTION OF THE UNITED STATES; and with calm dignity, united with pathos, the full evidence which they afford of a regular conspiracy TO OVERTURN THE GOVERNMENT. And the report should likewise dwell upon the inevitable effect, and probably the intention of these proceedings to encourage hostile foreign powers to decline accommodation, and proceed in hostility.

"The Government must not merely defend itself, it must attack and arraign its enemies. But in all this there should be great care to distinguish the people of Virginia from their legislature; and even the greater part of those who may have concurred in the legislature, from their Chiefs, manifesting indeed a strong confidence in the good sense and patriotism of the people, that they will not be the dupes of an insidious plan to DISUNITE THE PEOPLE OF AMERICA, TO BREAK DOWN THEIR CONSTITUTION, and expose them to the enterprises of a foreign power.

"This report should conclude with a declaration, that there is no cause for a repeal of the laws. If, however, on examination, any modifications consistent with the general design of the laws, but instituting better guards, can be devised, it may be well to propose them, as a bridge for those who may incline to retreat over. Concessions of this kind, adroitly made, have a good rather than a bad effect.

* February 2, 1799.

"On a recent, though hasty revision of the Alien law, it seems to me deficient in precautions against abuse, and for the security of citizens. This should not be. No pains or expense should be spared to disseminate this report. A little pamphlet containing it should find its way into every house in Virginia. This should be left to work, and NOTHING TO COURT A SHOCK should be adopted. In the mean time, the measures for raising the military force should proceed with activity. 'Tis much to be lamented that so much delay has attended the execution of this measure. In times like the present, not a moment ought to have been lost to secure the Government so powerful an auxiliary. Whenever the experiment shall be made to subdue a *refractory and powerful State* by militia, the event will shame the advocates of their sufficiency. In the expedition against the Western insurgents, I trembled every moment, lest a great part of the militia should take it into their heads to return home rather than to go forward. When a clever force has been collected, let them be drawn towards Virginia, for which there is an obvious pretext, and then let measures be taken to act upon the laws, and put Virginia to the test of resistance. This plan will give time for the fervor of the moment to subside, for reason to resume the reins, and, by dividing its enemies, will enable the Government to triumph with ease."

At the commencement of the session, the leaders of the House of Representatives had been strenuously urged to pre-occupy the ground, by a consideration of the objections raised to these laws, and by an early declaratory vote. This had been delayed, but soon after Hamilton's letter, a Report was made on the Constitutionality and expediency of these acts, and of the measures of defence and revenue. The first point being discussed, their expediency, and that of the other defensive measures, was strongly asserted.

"Did not," it asked, "some of the United States, six months since, present as alluring objects for ambition or cupidity, as inhospitable Egypt? What was then the comparative difficulty between invading America and subverting the British power in the East Indies? Was not the Ottoman Sultan really the friend of France, at the time his un-

suspecting dependencies were invaded? Did France distinguish between absolute and free governments? What was the fate of Switzerland? A victim of her perfidious seductions. The measures of defence were measures of prudence and of duty.

"The Alien acts bore only upon the *dangerous* and *suspected*—they left to the *inoffensive* and peaceable a safe asylum. The principles of the Sedition law were among the most ancient principles of the government. They had been ingrafted into our statutes, or practised upon as maxims of the common law, were often and justly applied in the war of the Revolution."

Acting upon these views, Resolutions were passed, declaring the inexpediency of repealing either of those statutes, or of the laws respecting the Navy, Military establishments, or revenue of the United States.

Either to counteract the influences of the proceedings of Virginia as to these laws, or to expose the devotion of the Democratic party to France, resolutions were introduced into the Assembly of that State, declaring that the Government of the United States ought to be maintained against every attempt to weaken, degrade, or destroy it; approving the measures of defence; denouncing the injuries and insults of France; and applauding the efforts to obtain redress by negotiation. These were all rejected, and substitutes brought forward by Nicholas were adopted. They expressed indignation against the depredations of all foreign nations, but were silent as to those of France particularly; pronounced a standing army unnecessary, and deprecated war for any other cause than an invasion, against which the militia were their security. These passive substitutes were carried by a vote of two-thirds.

As early as seventeen hundred and eighty, Hamilton is seen to have set forth as one of the effects of the "jealousy of power" which rendered the Confederation inadequate to the purposes of a general government, that it had "led" the States "to exercise a right of judging in

the last resort of the measures recommended by Congress, and of acting according to their own opinions of their propriety or necessity." How far the exercise of this right of judging and of acting was then warrantable might be a matter of discussion. But in the establishment of the Federal Constitution, the American people had confided to Congress ample powers, as to which the States had no right "of judging or of acting." Its laws, as far as they affected the matters confided to them, were Supreme, to be expounded by the National judiciary. An attempt to resist them by a State, or by the people of a State, is an act of rebellion, leading to a Revolution; and only to be vindicated on grounds which render revolutions justifiable.

Keenly alive to every possibility of danger to the Union, whose welfare and preservation was the great solicitude of his life, Hamilton is seen to have contemplated, though with extreme reluctance, an interposition of the military force of the nation. But the necessity of such a resort he had always deprecated. He felt it would be a kinder office "to surround the Constitution with new ramparts," and to provide new guards for liberty "by consolidating the strength of the government."

The means he contemplated, in view of the recent revolutionary proceedings of Kentucky and Virginia, were at this time communicated by him to Colonel Dayton, the Speaker of the House of Representatives. Time will determine the value of his suggestions.

"An accurate view of the internal situation of the United States presents many discouraging reflections to the enlightened friends of our government and country. Notwithstanding the unexampled success of our public measures at home and abroad, notwithstanding the instructive comments afforded by the disastrous and disgusting scenes of the French Revolution, public opinion has not been ameliorated; sentiments dangerous to social happiness have not been diminished,"

... on the contrary, there are symptoms which warrant the apprehension that among the most numerous class of citizens, errors of a very pernicious tendency have not only preserved, but have extended their empire. Though something may have been gained on the side of men of information and property, more has probably been lost on that of persons of a different description.

"An extraordinary exertion of the friends of government, aided by circumstances of momentary impression, gave in the last election for members of Congress a more favorable countenance to some States than they had before worn; yet it is the belief of well-informed men, that no real or durable change has been wrought in those States. On the other hand, it is admitted by close observers, that some of the parts of the Union which in time past have been the soundest, have of late exhibited signs of a gangrene begun and progressive.

"It is likewise apparent, that opposition to the government has acquired more system than formerly, is bolder in the avowal of its designs, less solicitous than it was to discriminate between the Constitution and the administration,—more open and more enterprising in its projects. The late attempt of Virginia and Kentucky to unite the State legislatures *in a direct resistance to certain laws of the Union*, can be considered in no other light than as an *attempt to change the Government*. It is stated, in addition, that the opposition party in Virginia,—the head-quarters of the faction,—have followed up the hostile declarations which are to be found in the resolutions of their General Assembly, by an *actual preparation of the means of supporting them by force*.—That they have taken measures to put the militia on a more efficient footing—are preparing considerable arsenals and magazines, and (which is an unequivocal proof how much they are in earnest) have gone so far as to lay new taxes on their citizens.

"Amidst such serious indications of hostility, the safety, and the duty of the supporters of the government call upon them to adopt vigorous measures of counteraction. It will be wise in them to act upon the hypothesis, that the opposers of the government are resolved, if it shall be practicable, to *make its existence a question of force*.—Possessing, as they now do, all the Constitutional powers, it will be an unpardonable mistake on their part, if they do not exert them to *surround the Constitution with new ramparts*, and to disconcert the schemes of its enemies.

"The measures proper to be adopted, may be classed under heads.

1. Establishments which will extend the influence and promote the popularity of the government.

"Under this head three important expedients occur. 1. The extension of the Judiciary system. 2. The improvement of the great communications, as well interiorly as coastwise, by turnpike roads. 3. The institution of a society, with funds to be employed in premiums for new inventions, discoveries, and improvements in agriculture and the arts. The extension of the Judiciary system ought to embrace two objects; one, the subdivision of each State into small districts, (suppose Connecticut into four and so on in proportion,) assigning to each a judge with a moderate salary—the other, the appointment in each county of Conservators or Justices of the Peace, with only ministerial functions, and with no other compensations than fees for the services they shall perform. This measure is necessary to give efficacy to the laws, the execution of which is obstructed by the want of similar organs, and by the indisposition of the local magistrates in some States. The Constitution requires, that Judges shall have fixed salaries—but this does not apply to mere Justices of the Peace without judicial powers. Both these descriptions of persons are essential, as well to the energetic execution of the laws, as to the purposes of salutary patronage.—The thing would no doubt be a subject of clamor, but it would carry with it its own antidote, and when once established, would bring a very powerful support to the government.

"The improvement of the roads would be a measure universally popular—none can be more so. For this purpose, a regular plan should be adopted coextensive with the Union, to be successfully executed; and a fund should be appropriated sufficient for a basis of a loan of a million of dollars. The revenue of the Post Office naturally offers itself. The future revenue from tolls would more than reimburse the expense; and public utility would be promoted in every direction.

"The institution of a Society, with the aid of proper funds to encourage agriculture and the arts, besides being productive of general advantage, will speak powerfully to the feelings and interests of those classes of men to whom the benefits derived from the Government have been heretofore the least manifest.

"2. Provision for augmenting the means and consolidating the strength of the government.

"A million of dollars may without difficulty be added to the reve-

nue by increasing the rates of some existing indirect taxes, and by the addition of some new items of a similar character. The direct taxes ought neither to be increased nor diminished. Our Naval force ought to be completed to six ships of the line, twelve frigates, and twenty-four sloops of war.—More at this juncture would be disproportioned to our resources. Less would be inadequate to the ends to be accomplished. Our military force should for the present be kept upon its actual footing; making provision for a re-enlistment of the men for five years, in the event of a settlement of differences with France; with this condition, that in case of peace between Great Britain, France, and Spain, the United States being then also at peace, all the privates of the twelve additional regiments of infantry, and of the regiment of dragoons, exceeding twenty to a company, shall be disbanded. The corps of artillerists may be left to retain the numbers which it shall happen to have, but without being recruited, until the number of officers and privates shall fall below the standard of the infantry and dragoons. A power ought to be given to the President to augment the four old regiments to their war establishment.

"The laws respecting volunteer companies and the *eventual army* should be rendered permanent; and the Executive should proceed without delay to organize the latter. Some modifications of the discretion of the President will, however, be proper in a permanent law; and it will be a great improvement of the plan, if it shall be thought expedient to allow the enlistment, for the purpose of instruction, of a corps of sergeants equal to the number requisite for the eventual army.

"The institution of a Military Academy will be an auxiliary of great importance. Manufactories of every article, the woollen parts of clothing included, which are essential to the supply of the army, ought to be established.

"3. Arrangements for confirming and enlarging the legal powers of the Government. There are several temporary laws which, in this view, ought to be rendered permanent, particularly that which authorizes the calling out of the militia to suppress unlawful combinations and insurrections.

"An article ought to be proposed to be added to the Constitution, for empowering Congress to open canals in all cases in which it may be necessary to conduct them through the territory of two or more States, or through the territory of a State, and that of the United States. The power is very desirable for the purpose of improving the prodigious

facilities for inland navigation with which nature has favored this country. It will also assist commerce and agriculture by rendering the transportation of commodities more cheap and expeditious. It will tend to secure the connection, by facilitating the communication between distant portions of the Union, and it will be a useful source of influence to the government.

"Happy would it be if a clause could be added to the Constitution, enabling Congress, on the application of any considerable portion of a State, containing not less than a hundred thousand persons, to erect it into a separate State on the condition of fixing the quota of contributions which it shall make towards antecedent debts, if any there shall be, reserving to Congress the authority to levy within such State the taxes necessary to the payment of such quota in case of neglect on the part of the State. The subdivision of the *great* States is indispensable to the security of the General Government, and, with it, of the UNION. Great States will always feel a rivalship with the common head, will often be disposed to machinate against it, and, in certain situations, will be able to do it with decisive effect. The subdivision of such States ought to be a cardinal point in the Federal policy; and small States are doubtless best adapted to the purposes of local regulation, and to the preservation of the republican spirit. This suggestion, however, is merely thrown out for consideration. It is feared that it will be inexpedient, and even dangerous, to propose at this time an amendment of the kind.*

"4. Laws for restraining and punishing incendiary and seditious practices. It will be useful to declare, that all such writings, &c., which at common law are libels, if levelled against any officer whatsoever of the United States, shall be cognizable in the Courts of the United States. To preserve confidence in the officers of the general government by preserving their reputations from malicious and unfounded slanders, is essential to enable them to fulfil the ends of their appointment. It is therefore both constitutional and politic to place their reputations under the guardianship of the Courts of the United States. They ought not to be left to the cold and reluctant protection of State Courts always temporizing, sometimes disaffected.†

* This suggestion of the importance of more narrow limits to the States is seen to have been in consonance with Jefferson's after views.

† This suggestion is the basis of an allegation, that Hamilton thought the

"But what avail laws which are not executed? Renegade aliens conduct more than one-half of the incendiary presses in the United States, and yet, in open contempt and defiance of the laws, they are permitted to continue their destructive labors. Why are they not sent away? Are laws of this kind passed merely to excite odium and remain a dead letter? Vigor in the Executive is at least as necessary as in the legislative branch. If the President requires to be stimulated those who can approach him ought to do it."

laws required amendment, as not effective enough"! Adams, ix. p. 14, note. See also Randall, ii. 463. The habitual unscrupulous mendacity of this work has already been so fully shown as to supersede the further exhibition of its increasing, progressive frequency and virulence, but a note to this suggestion of Hamilton to make libels against the officers of the United States "*cognizable in the Courts of the United States*" may be noticed. "It" (a libel) "was punishable for example, by putting the offender in the pillory, until the Statute 56 George III. c. 138. This was a *limitation* of the common law, which Hamilton proposed to put into *full* force." No such proposition can be traced to him.

CHAPTER CXLIX

JEFFERSON, meanwhile, was in frequent consultation as to the means of thwarting the government, and of inspiring distrust as to the motives of its supporters. With these views he wrote to Madison:

"In a *society of members*, between whom and yourself are great mutual esteem and respect, a most anxious desire is expressed that you would publish *your debates of the Convention.* * * * Could those debates be ready to appear critically, their effect would be decisive. I beg of you to turn this subject in your mind. The arguments against it will be personal; those in favor of it moral; and something is required from you as a set-off against the sin of your retirement."*

Madison replied:†

"The ideas of publishing the debates of the Convention ought to be well weighed before the expediency of it, in a public as well as personal view, be decided on. Besides the intimate connection between them, the whole volume ought to be examined, with an eye to the use of which every part is susceptible. * * * In the disposition which is at present exercised over the rules of construction, and the counter reports of the proceedings that would perhaps be made out and mustered for the occasion, it is a problem, what tone might be given to the impression on the public mind. But I shall be better able to form and explain my opinion by the time, which now approaches, when I shall have the pleasure of seeing you; and you will find the advantage of

* Jefferson to Madison. Jefferson's Works, iii. 407. January 16, 1799.
† February 8, 1799.

looking over the sheets attentively before you finally make up your own." He then refers to the communications of Gerry, as shown in a report recently submitted by Pickering to the President. "It is impossible," he says, "for any man of candor not to see in the former an anxious desire on the part of France for accommodation, mixed with the feelings which Gerry satisfactorily explains. The latter [displays a narrow understanding and a most malignant heart. Taken, however, in combination with preceding transactions, it is a link that fits the chain. The President could not do less in his speech than allow France an option of peace, nor his minister do less than to insult and exasperate her, if possible, into a refusal of it."] *

He encloses a few more observations for the press. Not daring to meet the contradictions and disproofs which would have ensued a publication of his reported debates, an act of more guarded infidelity was committed. A copy of Hamilton's first outline of a Constitution was placed in the hands of Callender, and was published by him.

Jefferson writes to Monroe, stating an account of the revenue and expenditure, and the amount of "new taxes."

"I shall send you," he adds, "Gerry's correspondence and Pickering's report on it, by which you will perceive the willingness of France to treat with us, and our determination not to believe it, and therefore to go to war with them. For, in this light, must be viewed our surrounding their islands with our armed vessels, instead of their cruising on our coasts, as the law directs." He foretells, that Gerry's despatches will tend strongly to open the eyes of the people, fears the effect of the bill for opening commerce with St. Domingo, as a high aggravation "to France, which, in addition to our cruising around their islands, will put their patience to a great proof. One fortunate circumstance is, that, annihilated as they are on the ocean, they cannot get at us for some time, and thus will give room for the popular sentiment to correct the *imprudence*." He calls upon him to subscribe to raise a considerable sum of money on loan, to accomplish "a very important

* The parts in brackets are omitted in the copy for the press prepared under Madison's eyes.

measure under consultation" not disclosed. A similar request is made to Madison.

The comments on Gerry's conduct, Jefferson well knew, would prepare his mind for an approach. Soon after his return, Gerry wrote to Jefferson. He selected this opportune time to answer in an elaborate letter, the chief object of which was to induce him to commit a breach of faith by the disclosure of diplomatic confidences. It was couched in terms transparent to any unbiassed mind.*

To soothe his aged pride, offended at the employment of Logan † in a secret mission, he broadly denies to Gerry this fact.

"In confutation of these and all future calumnies, by way of anticipation, I shall make you a profession of my political faith." His policy was to rely for internal defence "on the militia solely, till actual invasion—and for such a naval force only as may protect our coasts and harbors from such depredations as we have experienced"—that he was "not for a standing army in time of peace, which may overawe the public sentiment—nor for a navy, which, by its own expenses and the eternal wars in which it will implicate us, will grind us with pub-

* Jefferson's Works, iii. 407. Jan. 26, 1799.

† In a graphic account of an interview sought by Logan with Washington, the late President states in a memorandum of the interview: "He seemed a little confounded, but recovering, said that not more than five persons had any knowledge of his going—that he was furnished by Mr. Jefferson and McKean with certificates of citizenship." Washington answered "that *he* was more fortunate than our envoys, for they could neither be received nor heard by M. Merlin or the Directory—that if the powers of France were serious in their professions, there was a plain and effectual way by which that object could be accomplished—namely, to repeal all the obnoxious arrets, by which the commerce and rights of this country had been invaded, put an end to further depredations on both, and make restitution for the injuries we had received."—He "asked him *if the Directory looked upon us as worms, not even allowed to turn when trod upon*; for it was evident to all the world, that we had borne and forborne, beyond what even common respect for ourselves permitted." Washington's Writings, xi. 384-5.

lic burthens and sink us under them." "I am for free commerce with all nations, political connection with none, and little or no diplomatic establishment." He finally urged him to follow the example of Monroe, and to publish the official confidences of his embassy. "It may be in your power," he said, "to save the people from these miseries by full communications and unrestrained details, *postponing motives of delicacy to those of duty.* It rests with you to come forward independently, to make your stand on the high ground of your own character, to disregard calumny, and to be borne above it on the shoulders of your grateful fellow-citizens, or to sink into the humble oblivion to which the Federalists (self-called) have secretly condemned you; and even to be happy, if they will indulge you with oblivion, while they have beamed on your colleagues meridian splendor." Certain leaves of this long letter, with characteristic timidity, he prayed him to "*burn.*"

"My trust in you leaves me *without a fear* that this letter, meant as a confidential communication of my impressions, may ever go out of your own hand, or be suffered in any wise to *commit my name.* Indeed, besides the accidents which might happen to it even under your care, considering the accident of death to which you are liable, I *think it safest* to *pray* you, after reading it as often as you please, to destroy at least the second and third leaves." * * * "I therefore *repeat my prayer* to *burn* the *second and third leaves.*"*

Carefully avoiding to commit himself by writing for the press, he now "prayed, and besought, and petitioned his friends to write for the public," promising them to be "sacredly secret." "The engine is the press. Every man must lay his *purse* and his pen under *contribution.*" †

While the leaders of the Democratic party were using all their efforts to impair the energies of public opinion by false alarms of unreal dangers, the intelligence from Europe was of a character to confirm the spirit of the nation. The tone of England, upon whom the destinies of Europe seemed to hang, was firm and lofty. Her King

* Jefferson's Works, iii. 407-413.

† Jefferson to Madison—Works iii 416—February 5, 1799.

spoke the voice of her people, whose confidence had been raised by an unexampled series of naval triumphs; by the suppression of the Irish rebels; and by the co-operation of Russia and of Turkey. The victory of the Nile had awakened the hopes of the European continent. In the low countries were formidable insurrections against the imposed authorities.—In France, extensive disaffection. Austria was firm.—The Directory alarmed.

Hamilton had seen all the dangers which would result from a longer adherence to a merely defensive policy. He felt that it was not consistent with the dignity of the nation to endure the continuing, though less frequent, depredations of France. He hoped that while her political horizon was darkened, she might feel the importance of acceding to the just and moderate demands of the United States. Always anxious for peace on honorable terms, he proposed a measure which he believed would ensure it, and thus wrote to a member of the House, the day of the date of Jefferson's letter to Gerry:*

"I should be glad to see, before the close of the session, a law empowering the President, at his discretion, in case a negotiation between the United States and France should not be on foot by the first of August next, or being on foot should terminate without an adjustment of differences, to declare that a state of war exists between the two countries, and thereupon to employ the land and naval forces of the United States in such manner as shall appear to him most effectual for annoying the enemy, and for preventing and frustrating the hostile designs of France, either directly or *indirectly, through any of her allies.* This course of proceeding, by postponing the event, and giving time for the intervention of negotiation, would be a further proof of moderation in the government; and would tend to reconcile our citizens to the last extremity if it shall ensue, gradually accustoming their minds to look forward to it.

"If France be really desirous of accommodation, this plan will ac-

* Hamilton's Works, vi. 390. January 26, 1799.

celerate her measures to bring it about. If she have not that desire, it is best to anticipate her final vengeance, and to throw whatever weight we have into the scale opposed to her. This conduct may contribute to disable her to do the mischief which she may meditate. As it is every moment possible, that the project of taking possession of the *Floridas* and *Louisiana*, long since attributed to France, may be attempted to be put in execution, it is very important that the Executive should be clothed with power to meet and defeat so dangerous an enterprise. Indeed, if it is the policy of France to leave us in a state of semi-hostility, 'tis preferable to terminate it, and, by taking possession of those countries for ourselves, to obviate the mischief of their falling into the hands of an active foreign power, and at the same time to ensure to the Atlantic States the advantage of keeping the key of the Western Country. I have been long in the habit of considering the acquisition of those countries as essential to the permanence of the UNION, which I consider as very important to the welfare of the whole.

"If universal empire is still to be the pursuit of France, what can tend to defeat the purpose better than to detach South America from Spain, which is only the channel through which the riches of *Mexico* and *Peru* are conveyed to France? The Executive ought to be put in a situation to embrace favorable conjunctures for effecting such separation. 'Tis to be regretted, that the preparation of an adequate military force does not advance more rapidly. There is some sad nonsense on this subject, in some good heads. The reveries of some of the friends of the Government are more injurious to it than the attacks of its declared enemies.—When will men learn to profit by experience?"

Instead of a policy so well adapted to the promotion of the true interests of the United States, to restore peace, if France was disposed to peace, on honorable terms; or, if she preferred war, to anticipate the designs upon the Western territory she will be seen to have entertained, a step was now taken by Adams which determined his own fate, and that of the Federal party. When* the President arrived at the Seat of Government,

* Hamilton's Works, vii. 704.

"the tone of his mind seemed to have been raised, rather than depressed. It was suggested to him, that it might be expedient to insert in his speech to Congress, a sentiment of this import: That after the repeated rejected advances of this country, its dignity required that it should be left with France in future to make the first overture; that, if desirous of reconciliation, she should evince the disposition by sending a minister to this government; he would be received with the respect due to his character, and treated with the frankness of a sincere desire of accommodation. The suggestion was received in a manner both indignant and intemperate." Adams announced it, "as a sentiment which he had adopted on mature reflection; *that if France should send a minister to-morrow, he would order him back the day after*. So imprudent an idea was easily refuted. Little argument was requisite to show, that, by a similar system of retaliation, when one government in a particular instance had refused the envoy of another, nations might entail upon each other perpetual hostility, mutually barring the avenues of explanation. In less than forty-eight hours from this extraordinary sally, the mind of Adams underwent a total revolution; he resolved not only to insert in his speech the sentiment which had been proposed to him, but to go farther, and to declare, that if France would give explicit assurances of receiving a minister from this country with due respect, he would send one. In vain was this extension of the sentiment opposed by all his ministers, as being equally incompatible with good policy, and with the dignity of the nation; he obstinately persisted, and the pernicious declaration was introduced. It was the groundwork of the false steps which succeeded.

"The declaration recommended to the President was a prudent one. The measures of Congress, by their mitigated form, showed that an eye had been still kept upon pacification. A numerous party were averse from war with France at any rate. A strong preference of honorable accommodation to final rupture was discernible, even amidst the effusions of resentment, in the rest of the community. The charges exhibited in the face of the world against the French government were of a high and disgraceful complexion; they had been urged with much point and emphasis. To give an opening to France to make conciliatory propositions, some salve for her pride was necessary. It was also necessary, she should be assured, that she would not expose herself to an affront by a refusal to receive the agent whom she might employ for that purpose. It would be a new proof to the American people of

the moderate and pacific temper of their government, which would tend to preserve their confidence; and to dispose them more and more to meet inevitable extremities with fortitude and without murmurs. But the supplement to the declaration was a blamable excess. It was more than sufficient for the ends to be answered. But the sentiment adopted *waived the point of honor*, which required that the next mission between the two countries should proceed from France.

"The national dignity demanded that this point should not be departed from without necessity. No such necessity could be pretended to exist. Another mission by America would naturally be regarded as evidence of a disposition to purchase the friendship of France, even at the expense of honor; an impression injurious in the eyes of Europe, and a measure which would transfer the negotiation beyond the immediate direction of the United States, and compel them to delegate to their envoys the important power of judging of the rapidly changing circumstances of Europe, and place it too much in the power of France to manage the progress of the negotiation, according to events."

Yet in despite of these paramount, cogent considerations, this last declaration was inserted in the speech.

Some time elapsed after the opening of the session before any information was received by Congress from the Executive as to the state of the negotiations in France, which had terminated with Gerry. On the eighteenth of January, a message was sent by the President, transmitting the whole of his correspondence with Talleyrand, and his vindicatory letter. It was followed by an able analytical comment from the pen of the Secretary of State. This document had been prepared by Colonel Pickering, with great deliberation, and was submitted to the President, who, after expunging the parts most condemnatory of Gerry, gave it his sanction by laying it before Congress.

The result of this examination was, that the French government by always abstaining from specific demands of damages, by refusing to receive our ministers, by at

length proposing to negotiate in a mode which it knew to be impracticable, with the person who had no powers, and who, therefore, constantly refused to negotiate, and thus wholly avoiding a negotiation, has kept open the field of complaints for wrongs and injuries, in order, by leaving them undefined, to furnish pretences for unlimited depredations. "In this way, it gratified its avarice and revenge, and it hoped also to satiate its ambition."

In the contingency of a war, the President had resolved to open a negotiation with Russia, and with the Porte. Rufus King, the Ambassador at St. James, was authorized to treat with the former. William Smith, the resident at Lisbon, with the latter. These appointments were announced on the fourteenth of February, and on the following day, the President sent his message to Congress previously mentioned, stating the continued existence of the French decree, which "subjected explicitly and exclusively American seamen to be treated as pirates, if found on board ships, the enemies of France."

Proceedings so recent, would give the impression, that no immediate change in the foreign policy of the country was in contemplation; that the President had resolved to retain the dignified attitude in which he stood. But those who saw him in a nearer point of view, discovered the workings of his passions. The rejection by the Senate of his nomination of his son-in-law as Adjutant-General,* had inflicted a deep wound upon his self-love; his compelled preferment of Hamilton to the second rank in the army; the authoritative letter of Washington requiring the fulfilment of the stipulation upon which he accepted the chief command; his own humiliating reply; all these rankled in his breast, and laid him open to the insidious arts of his opponents.

* For the grounds of this rejection see Pickering's Review, p. 100.

The influence of some of these occurrences was early shown. The act creating the army was imperative, yet no orders were for a long time given to recruit it. "Steps," General Hamilton wrote, as early as the preceding month of August, "have been taken towards the correction of this obvious mistake, the success of which now depends on the President, and on that success the alternative of some or no energy."

Yet no instructions to recruit were given. Months elapsed, and the President intimated that they need not be hurried. In the previous year, Washington had written to Hamilton: "No plan yet decided, or that I can discover, for recruiting the augmented force, or even for appointing the officers thereof. It is for the Executive to account for this delay. Sufficient it is for me to regret, and I do regret it sorely. The law passed before the middle of July, and *was positive;* and the middle of September has produced no fruit from it. This to *me* is inconceivable."

Hamilton communicated this continued delay to him. He replied:

"If the augmented force was not intended as an '*in terrorem*' measure, the delay in recruiting is unaccountable, and baffles all conjecture on reasonable grounds. Far removed from the scene, I might ascribe these delays to wrong causes, and therefore will hazard no opinion respecting them; but I have no hesitation in pronouncing that, unless a material change takes place, our military theatre affords but a gloomy prospect to those who are to perform principal parts in the drama. Sincerely and affectionately yours.*

That personal feelings and personal motives solely

* Jefferson, January 29, 1799, urging Pendleton to resume his pen, enumerates among the topics—"recruiting officers lounging at every Court House to *decoy the laborer* from his plough,—a navy of fifty ships," &c. Jefferson's Works, iii. 415.

actuated Adams, would seem to be indicated by all the concurring circumstances. In the selection of the General staff of the army, his animosity to Hamilton had been defeated, and defeated in a manner which must have brought upon him the consciousness of degradation, of degradation in the eyes of Washington. But what was probably more galling to his vanity, he had been controlled—controlled in the exercise of the Executive power of appointment,—in his view, a "kingly prerogative." He resolved upon revenge, and he revenged himself by defeating an imperative law. He would place Washington and Hamilton in the ludicrous position of being Generals without an army; and while he exercised the patronage of filling commissions in every rank, as far as he could, he determined there should be no file. The overshadowing of elevated *military* renown had ever been his bane. The antidote was in a never-ceasing eulogium upon a *Navy*, of which he claimed to be the special patron.

The pending legislation of Congress on the bill framed by Hamilton, for "the better organizing of the troops of the United States," forced his volcanic passions, of which the murmurs had been heard, to burst into flame. This bill, it has been stated, with proper deference to Washington, who had been Commander-in-chief during the Revolution, established the rank of "GENERAL." It was reported in the Senate on the same day with the recent message of the President, covering the correspondence with France; and was followed by acts, all indicating the determined purpose of the Senate to maintain the dignity of the nation:—one, vesting a power of retaliation in the President, founded on that message;—another, to augment the Navy—a third, giving eventual authority to augment the army to a total of fifty thousand men, in conformity with Hamilton's suggestions.

The bill "for better organizing the army" was ordered to a third reading in the Senate on the seventh of February—and, on the same day,* Sedgewick writes to Hamilton: "The delays in the military department are as unaccountable as they are injurious. * * * Is there no remedy for this evil? Will it be possible to get on in a state of war or insurrection? I need not say I write to you in the most perfect confidence. I last evening called to pay my respects to the President. He was alone, and, as I hoped, soon introduced the subject of our military. I gave him my view of the subject, and somewhat at large. He replied, and nearly in the following words: 'As to the Virginians, sir, it is weakness to apprehend any thing from them; but, if you must have an army, I will give it to you; but remember, it will make the government more unpopular than all their other acts. They have submitted with more patience than any people ever did to the burden of taxes, which has been *liberally laid on*; but their patience will not last always.' This was the text on which he dilated extensively. I cannot say that I was astonished. Astonishment is a sentiment which he has for some time lost the power to excite.

"During the time that I was with him, the bill before the Senate for the organization of the army, was mentioned. He asked me what additional authority it was proposed to give the Commander-in-chief? I answered none; that all that was proposed was to give him a new title—that of General. 'What,' said he, 'are you going to appoint him General *over* the President? I have not been so blind but I have seen a combined effort among those who call themselves the friends of Government, to annihilate the essential powers given to the President.

* Hamilton's Works, vi. 393.

This, sir,' (raising his voice,) 'my understanding has perceived and my heart felt!' After an expression of surprise, and a declaration of belief that he was mistaken, with *all humility*, I prayed him to mention the facts from which he had made this inference. He answered, 'that if I had not seen *it*, it was improper for him to go into the detail.' This shows that we are afflicted with an evil, for which certainly no complete remedy can be applied; but it might be palliated, perhaps, by bringing into the administration a man of talents, and of that peculiar kind which gives an ascendency, without its being perceived."

Soon after this conversation, Adams took the decisive step. His distempered* jealous mind, had rendered him, the easy victim of a bold, deep, malignant intrigue. The attempt, which Jefferson had suggested immediately after his elevation to the Vice Presidency, "to come to a good understanding with Adams as to his future election,"† had been then abandoned by the advice of Madison. It was now resolved to make this experiment upon his credulity.

The letter of the President, of the twentieth of October, to the Secretary of State, previously quoted, was written a few days after the receipt by him of General Washington's letter as to the appointment of Hamilton, second in command. This letter and his subsequent course as to his speech indicate the workings of his mind. The delays of instructions to recruit had prevented the raising of the army, but still Washington and Hamilton held positions so prominent as to fix the popular mind upon them, as the principal personages in the opening drama. The institution of a third mission to France was

* "Adams has high passions, is tenacious of authority, and is precipitate." Rutherford to Sedgewick.

† Jefferson to Madison. Jefferson's Works, iii. 341.

an expedient which might shift the scene, and place Adams in the foreground of the stage.

Jefferson was not slow to discover what was passing in his vexed mind. The opportunity was offered for a coup d'état, which, if successful, would be decisive. "A committee of three members of the opposition waited upon Adams, and told him, that if he would institute a mission to make peace with France, and dismiss the Secretary at War, McHenry, and of State, Pickering, they would not oppose, or they would support his re-election to the Presidency."*

The bait was taken. Adams requested the Secretary of State, with the aid of the other members of his Cabinet, "to prepare the draught of a project of a treaty and consular convention, such as might at this day be acceded to by the United States, *if proposed* by France." It was to be "completed, as soon as the pressure of other business of more immediate necessity will permit."† As no intelligence had been received from France of an intention to propose a treaty, this request could only have reference to the mission, thus urged upon him.

Soon after Gerry's departure from Paris, Talleyrand, through Pichon, the French diplomatic agent at the Hague, opened communications, as previously related, with Vans Murray, the American resident minister, for the purpose of renewing a negotiation. In the first of these communications to Pichon he disavowed any hostile purposes in the Directory towards the United States, though such purposes had recently been menaced to Gerry—he disavowed any design to indicate to the United States the selection of an envoy, though such in-

* Pickering's Review, pp. 62 to 66, gives the evidence of this statement.

† Adams's Works, viii. 621.

dication had recently most insultingly been made, and merely hinted that the selection of Murray would not be unwelcome to France. In a second communication, to Pichon, the respectful reception of an envoy without any indication of the person was assured by Talleyrand.

Hamilton states:

"In this manner assurances were given, that France was disposed to treat, and that a Minister from the United States, 'would be received and accredited!' But they were accompanied with intimations of the characters proper to be employed, and who would be likely to succeed, which was exceptionable, both, as it savored of the pretension (justly censured by the President himself,) of prescribing to other governments how they were to manage their own affairs; and as it might be construed into a tacit condition of the promise to receive a minister. Overtures so circuitous and informal, through a person who was not the regular organ of the French government for making them, to a person who was not the regular organ of the American Government for receiving them, might be a very fit mode of preparing the way for the like overtures in a more authentic and obligatory shape, but they were a very inadequate basis for the institution of a new mission.—When the President pledged himself in his speech to send a minister, if satisfactory assurances of a proper reception were given, he must have been understood to mean such as were *direct* and *official*, not such as were both *informal* and *destitute of a competent sanction.*"

Yet upon this loose and vague foundation, Adams, lured by the pledge of Democratic support, on the eighteenth of February precipitately nominated Murray, envoy to the French Republic, "without previous consultation with any of his ministers! The nomination itself was to each of them, even to the Secretary of State, his constitutional counsellor in similar affairs, the first notice of the project."

The message bore date the same day with the passage of the bill in the Senate for "the eventual organization of the army," in which he beheld the perspective of Ham-

ilton's future elevation. "The British faction," he wrote, 'was determined to have a war with France; and ALEXANDER HAMILTON at the head of the army, and then President of the United States!" *

In his message to the Senate nominating Murray, he transmitted "a document † which," he said, "*seems* to be intended to be a compliance with the condition of his message of the twenty-first of June;" stated his own readiness "to embrace every *plausible appearance of probability* of preserving or restoring tranquillity;" and added, that the Envoy should "not go to France without direct and unequivocal assurances from the French government, signified by their minister of foreign relations, that he shall be received in character," and that an exchange of ministers should take place.

This procedure was immediately communicated to Hamilton by a senator, who wrote, "This message, important and mischievous as it is, was the result of Presidential wisdom, without the knowledge of, or any intima-

* Letter of Adams, xxxiv.

† The document on which this nomination was founded, was the second letter from Talleyrand to Pichon, before adverted to, bearing date the 28th Sept., 1798, *more than four months previous* to the nomination. Yet, it is stated, to have been received on the 31st of January, 1799. When it is seen that, in a letter, of the 1st of February, 1799—*the next day*, from the Secretary of State to Murray, the intervention of Holland was summarily rejected in these words, "The President did not pause for an answer in the negative," and from the probability of its having been received long before, the inference is, that this letter was merely the pretext of the nomination, prompted by other motives. The former of these letters, probably to avoid the objection that would be made to the appointment of Murray, that he had been indicated in it by Talleyrand—and to escape the comment that his selection of Murray was dictated by him, to the President, was suppressed. It was subsequently furnished to and published by Callender! ‡

‡ Works of Adams, i. 542.

tion to, any one of the administration. Had the foulest heart and the ablest head, in the world, been permitted to select the most embarrassing and ruinous measure, it would have been precisely the one which has been adopted." *

Jefferson bounded with joy at the success of this intrigue. He wrote forthwith to Madison, † "But the EVENT OF EVENTS was announced to the Senate yesterday." Having mentioned the nomination, he added, "*This had evidently been kept secret from the Federalists* of both Houses, as appeared by their dismay. The Senate have passed over this day without taking it up. It is said, they are gravelled and divided; some are for opposing, others do not know what to do." "It silences all arguments against the sincerity of France, and renders desperate every further effort towards war." In a similar strain of exultation he pronounced it to Pendleton "a great event." A week later, he again wrote to Madison, "The President hoped, that his friends would take on their own shoulders the odium of rejecting the nomination, but they did not choose it. The Hamiltonians would not, and the others could not alone."

"The measure," Hamilton observed, "was wrong both as to mode‡ and substance. The Constitution presumes that the President

* Sedgewick—Hamilton's Works, vi. 396.—Ibid. 398. Pickering to Hamilton. "There is but one sentiment on the subject among the friends of their country and the real supporters of the President's administration. Pains have been taken to ameliorate the measure by throwing it into a commission. But the President is fixed. The Senate must *approve* or negative the nomination. In the latter event perhaps he will name commissioners. I beg you to be assured, that it is wholly *his own act, without any participation or communication with us.*" Feb. 25, 1799.

† February 19.

‡ Adams wrote to the Attorney-General: "To me, it" (the mission) "has laid open characters. Some of these will do well to study a little more ma-

will consult his ministers, and the genius of our government, and the public good recommend the practice. He nominates his ministers, and may displace them when he pleases. Consultation will always be useful. The ablest men may profit by advice. Inferior men cannot dispense with it; if they do not get it through legitimate channels, it *will find its way* through such as are clandestine and impure." "Very different," Hamilton remarked, "from the practice of Adams, was that of the modest and sage Washington. He CONSULTED MUCH, PONDERED MUCH, RESOLVED SLOWLY, RESOLVED SURELY. The probable operation of such an exclusion from confidence must be to consign places of the highest trust to incapable honest men, or to capable dishonest men. Nor was the procedure essential to restore tranquillity. When from calculations of policy, France could brook the ignominy which the publication of the despatches of the Commissioners was calculated to bring on her, and stifling her resentment could invite the renewal of negotiation, what room can there be to doubt, that the same calculations would have induced her to send a minister to this country when an opening was given for it?"

This measure was not only unknown to the Cabinet, it was unknown to the Federal Senators. "Excepting a *few members* in the *opposition party, who were in the secret*, the surprise was as universal as it was extreme."

Dismayed by the opposition to it, anxious to screen himself by Washington's approbation before any disclosure of his conduct to his Cabinet was known to him, Adams announced this procedure to the late President *the day after it took place.* This annunciation was the long delayed answer to a letter from the late President

turely the spirit of their stations. But vanity has no limits—*arrogance shall be* made to feel a curb. If any one entertains the idea, that because I am the President of three votes only, I am in the power of the party, they shall find, that I am no more so than the Constitution forces upon me. If combinations of *Senators*, GENERALS, *and heads of departments* shall be formed, such as I cannot resist, and measures are demanded of me that I cannot adopt, my remedy is plain and certain. I will try my own strength at resistance for it, however. This is free and *entre nous.*" Adams's Works, viii. 629.

enclosing a letter to him from Barlow. "If you should be of opinion," Washington wrote, "that this letter is calculated to bring on negotiation upon open, fair, and honorable ground, and merits a reply, and will instruct me as to the tenor of it, I shall with pleasure and alacrity obey your orders, more especially, if there is reason to believe that it would be a means, however small, of restoring peace and tranquillity to the United States upon just, *honorable* and *dignified* terms, which I am persuaded is the ardent desire of all the friends of this rising empire."

"Tranquillity," Adams replied, "upon just and honorable terms, is undoubtedly the ardent desire of the friends of this country, and I wish the babyish and womanly blubbering for peace may not necessitate the conclusion of a treaty that will not be just nor very honorable. I do not intend, however, that they shall. There is not much sincerity in the cant about peace; those who snivel for it now were for war against Britain a few months ago, and would be now, if they saw a chance. In elective governments, peace or war are alike embraced by parties, when they think they can employ either for electioneering purposes."

Washington merely prayed, in reply, that the President "might long live to enjoy those blessings which must flow to our country, if we shall be so happy as to pass this critical period in an *honorable* and *dignified manner*, without being involved in the horrors and calamities of war."

That Washington viewed this procedure as a departure from that regard to the national dignity he had inculcated, is seen in a letter from him of the same date* to the Secretary of State. He observes:

"The unexpectedness of the event communicated in your letter of the twenty-first ultimo, did, as you may suppose, surprise me not a little. But far, very far indeed was this surprise short of what I ex-

* March 3, 1799. Washington's Writings, xi. 402.

perienced the next day, when, by a very intelligent gentleman immediately from Philadelphia, I was informed, that there had been no *direct* overture from the Government of France to that of the United States for a negotiation. On the contrary, that M. Talleyrand was playing the same loose and roundabout game he had attempted the year before, as in that case, might mean any thing or nothing, as would subserve his purposes best. Had we approached the antechamber of this gentleman when he opened the door to us, and there waited for a formal invitation into the interior, the governments would have met upon equal ground, and we might have advanced or receded according to circumstances, without commitment. In plainer words, had we said to M. Talleyrand through the channel of his communication, 'We still are, as we always have been, ready to settle by fair negotiation all differences between the two nations upon open, just and honorable terms, and it rests with the Directory (after the indignities with which *our* attempts to effect this have been treated), if they are equally sincere, to come forward in an unequivocal manner and prove it by their acts,' such conduct would have shown a dignified willingness on our part to negotiate, and would have proved their sincerity on the other. Under my present view of the subject, this would have been the course I should have pursued; keeping equally in view the horrors of war, and the dignity of the government."

The measure thus condemned had been taken, and the only question that remained was, how best to guard the interests of the country. Hamilton answered Sedgewick immediately: *,

"The step announced in your letter, just received, in all its circumstances, would astonish, if any thing from that quarter could astonish.

"But, as it *has* happened, my present impression is, that the measure must go into effect with the additional idea of a commission of three. The mode must be accommodated with the President. *Murray* is certainly not strong enough for so immensely important a mission."

His advice governed the action of the Senate.

* February 21.

Adams was placed by his precipitation in an awkward predicament.

"It is," a Senator wrote to Hamilton, "one of the misfortunes to which we are subjected by the wild and irregular starts of a vain, jealous, and half-frantic mind, that we are obliged to practise an infraction of correct principles, a direct communication between the President and Senate. I am this morning to wait upon him and solicit an interview between him and the committee upon his nomination, to induce him to alter it as respects the person; and, instead of an individual, to propose a commission, as it respects the principles on which the negotiation shall commence, and as respects the scene within which it shall be carried on."

The Committee had an interview with the President. "He declared repeatedly, that to defend the Executive against oligarchic influence, it was indispensable that he should insist on a decision on the nomination;" and he added, "I have, on mature reflection, made up my mind, and I will neither withdraw nor modify the nomination." If Murray was negatived, he said, he would then propose a Commission, two of which should be gentlemen within the United States; that the commission should be joint; that in no case they should be permitted to leave the country until the positive official assurances of their reception, "shall have been given." *

In consequence of this decision, it was resolved to reject the nomination; but at the request of Adams, the rejecting report was deferred to give him time to prepare a message to the Senate. He now abandoned the ground he had recently taken, and nominated Ellsworth the Chief-Justice of the United States—Patrick Henry and Murray as Commissioners—for the reason that it would give more general satisfaction.

"This modification of the measure," Hamilton ob-

* Sedgewick to Hamilton, February 28, 1799.

served, "was a virtual acknowledgment, that it had been premature. How unseemly was this fluctuation. It argued either instability of views, or want of sufficient consideration beforehand. The one or the other, in an affair of so great moment, is a serious reproach."

Henry declined the mission, General Davie of North Carolina was substituted.

It has been perceived, that in the act suspending intercourse with the French dominions, power to except its dependencies had been reserved. It was among the extraordinary inconsistencies of Adams, that, while he appointed a minister to France to negotiate an accommodation with her, he should have sent an agent to Toussaint to encourage the independence of St. Domingo. This did not escape Hamilton's observation, when urged by Pickering to frame a plan for the temporary government of that Island. Previous to the nomination of Murray, he had observed to him:

"The provision in the law is ample, but in this, my dear sir, as in every thing else, we must unite caution with decision. The United States must not be committed on the independence of St. Domingo—no guarantee—no formal treaty *—nothing that will rise up in judgment. It will be enough to let Toussaint be assured verbally, but explicitly, that upon his declaration of independence, a commercial intercourse will be opened; and continue while he maintains it and gives due protection to our rights and property. I incline to think the declaration of independence ought to precede." This suggestion was made in conformity with an opinion he entertained, that "the independence of the French West India colonies ought to be aimed at."

The Secretary of State having renewed his request, Hamilton enclosed a plan for the government of St. Do-

* The British government had proposed a plan to Rufus King, which he disapproved; but he suggested a joint treaty of protection. R. King to Secretary of State, January 10, 16, 25, 1799.

mingo, which, he wrote, "had been delayed by the multiplicity of his avocations and imperfect health, that had prevented his bestowing sufficient thought to offer any thing worth having."

It is a document indicative of the fertility of his genius—being well devised to protect an ignorant and semi-barbarous people from total licentiousness on the first acquisition of independence; and to prepare them for the gradual advances towards liberty, which their social improvement would require and suggest.

"The multiplicity of my avocations, joined to imperfect health, has delayed the communication you desired respecting St. Domingo. And what is worse, it has prevented my bestowing sufficient thought to offer at present any thing worth having.

"No regular system of liberty will at present suit St. Domingo. The government, if independent, must be military, partaking of the feudal system."

In this view of what the condition of St. Domingo required, he framed the outline of a form of government, to rest on a military basis. At the close of this letter he observed: "These thoughts are very crude, but perhaps they may afford some hints. How is the sending an agent to Toussaint to encourage the independency of St. Domingo, and a minister to France to negotiate an accommodation, reconcilable to consistency or good faith?"*

On the second of March the "act to regulate the medical establishment," drawn by General Hamilton,—an act "giving eventual authority to the President to augment the army;" and another "authorizing the augmentation of the marine corps," were approved; and on the third, the day prior to the adjournment of Congress, the bill, also drawn by Hamilton, "for the better organizing

* February 21, 1799.

of the troops of the United States," was likewise approved. This act, it has been stated, created the rank of "GENERAL," abolishing that of "Lieutenant-General." Though its avowed object was to confer upon Washington the higher rank he had held during the Revolution,* to which Adams claimed to have nominated him; and though its language was imperative, yet Adams, regarding it as an attempt "to appoint a General over the President," WITHHELD the commission!!

* June 15, 1775. The Committee appointed to draft a commission and instructions for "GENERAL Washington," were Lee, E. Rutledge, John Adams

CHAPTER CL.

This Republic had now virtually passed from under the counsels of its great founders, though still in power. All the salutary personal influences which had elevated it to its high and dignified station among the nations were checked. And it is to be no longer seen, subduing, but fitfully struggling with the antagonistic force, which had opposed its establishment, and was soon to obtain over it a long-enduring mastery.

The session of Congress ended on the fourth of March, seventeen hundred and ninety-nine, and the leading administration members left the seat of government with a fixed distrust of Adams, and with serious alarms for the future. They knew that no confidence was to be placed in the counsels of France, and that a mission thus instituted, would only encourage a renewal of her efforts to render the United States, an open auxiliary in her projects of ambition. They saw all their exertions to sustain the high sense of national honor her injuries had aroused, baffled; that their country, humiliated and weakened, would become, for a time, the mere satellite of an armed despotism, that aggressions on the part of England would follow, then commercial restrictions and retaliations, the policy Jefferson had proposed and Madison had supported, then a feeble war—and a compromising peace.

Nor were they without sincere apprehensions as to the internal condition of the Republic. They feared lest the popular mind, prone to extremes, might sanction the theoretic innovations of Jefferson—innovations hostile to all efficient government; and that, in the ardent strife of parties, the institutions they had originated, and had so long labored to sustain, would become the prey of anarchy. With these impressions, they returned to their homes discouraged and despondent—the more—because they saw their opponents buoyantly triumphing at the success of an intrigue they could not have suspected, which placed the President beyond the reach of temperate or systematic counsels.

Meanwhile, wherever the Democratic influence most prevailed, a feverish excitement was to be seen. The clamors against a standing army, so often resounded, were continued. The officers employed to recruit were treated with indignity,* that they had accepted commissions in a menaced war with France was, in those parts of the Union where her agents had been most active, denounced as an offence against the cause of liberty—against such a cause the people were implored not to fill the ranks of the army. The Irish emigrants loudly clamorous, petitioned for relief from the law against "*dangerous* aliens," and, at the same time, showed their disregard of all law by a political tumult on Sunday at the seat of Government, pursuing the citizens into their dwellings, only restrained in their violence by the civil authority, and released from prison by partisan interference. Sedi-

* The black cockade designated by Washington was treated as an object of contumely, and a Journal was published to record alleged offences of the troops—entitled, "The Cannibal's Progress."—commissions were also sought by the opposition, as Washington states, "to divide and contaminate the army, and perhaps, at a critical moment, bring on confusion." Wash. xi. 317.

tion-poles with their red flags were again erected in various parts of the country as the rallying signals of disaffection. Pennsylvania, whose population still slumbered under a heavy cloud of ignorance, again became the scene of an Insurrection. The recent authority to raise a loan, they were told, empowered the Government to mortgage private property; and the preliminary valuations for the direct tax being represented, as having this in view, the deluded people resolved to resist its collection, as alike arbitrary and unconstitutional. This determination had shown itself during the preceding winter. The instances of resistance were so frequent, and there were such appearances of combination, that the Judiciary was applied to, and warrants were issued. This attempt to assert the authority of the laws produced open opposition. At various points in the great counties of Bucks, Montgomery, and Northampton, consultations were held. The marshal arrested a few of the more daring conspirators, when a party of armed men, composed of militia led by a captain of the name of Fries, beset the house where they were in custody, and, after threatening the magistrate with personal violence, rescued the prisoners. An immediate interposition of the military force would have restored quiet, but the President had left Philadelphia, and in the interval of the exertion of the powers of the Government, this outbreak assumed the aspect of a rebellion. The Governor of the State being incompetent to his duties, his authority had devolved upon two of the most subservient partisans of Jefferson: Several of the magistrates were advised, that setting up liberty-poles was no crime, if done peaceably; and thus the turbulent and flagitious were assured, that from the State officers there was nothing to apprehend.

The Secretary of the Treasury apprised his predecessor of what was passing. Hamilton replied: *

"It is a good principle for the Government of the United States to employ directly its own means—only do not let this be carried so far as to confine it to the use of inadequate means, or to embarrass the auxiliary means which circumstances may require.

"The idea of the late President's administration of considering the Governor of each State as the first General of the militia, was well considered, and, in my opinion, wisely adopted; and will be adhered to. In its general operation, it will obviate many difficulties and collisions; and, by enhancing their importance, tend to draw the State executives to the General Government. Take good care, that in the present instance, the force employed be not inadequate."

General Hamilton also wrote to the Secretary at War:

"Beware, my dear sir, of magnifying a riot into an Insurrection, by employing, in the first instance, an inadequate force. 'Tis better far to err on the other side. Whenever the Government appears in arms, it it ought to appear like a HERCULES, and inspire respect by the display of strength. The consideration of expense is of no moment compared with the advantages of energy. 'Tis true, this is always a relative question; but 'tis always important to make no mistake. I offer only a *principle*, and a *caution*. A large corps of auxiliary cavalry may be had in Jersey, New York, Delaware and Maryland, without interfering with farming pursuits. Will it be inexpedient to put under marching orders a large force provisionally, as an eventual support of the corps to be employed—to awe the disaffected? Let all be well considered."

After some delay, a Proclamation was issued, announcing the existence of these "treasonable proceedings," warning the Insurgents to disperse, and requiring the officers and people to aid in their suppression. An adequate force of militia, supported by a detachment of regular troops, was at last marched to the scene of disaf-

* March 21, 1799.

fection. The Insurgents were overawed—general assurances of submission made—the leaders taken. The quiet of the country was in constant danger of being disturbed on its interior frontier. This also came into Hamilton's comprehensive view. He wrote, in his military capacity, a peremptory order in relation to the demarcation of the Indian line of boundary—"As this is a matter of great importance to the United States, I shall rely that nothing on the part of the military will be wanting which can tend to a speedy and effectual execution."

In the mean time, looking to its permanent enduring interests, he sought to calm the discontents which the defection of Adams had produced among the Federalists. Their dissatisfaction was quieted, and the impulse which had been given to the public opinion was seen in the elections of New York and Virginia.

In the former of these States, the Federalists had a majority in the legislature; but the want of an efficient leader in that body gave advantages to Burr, who was a representative of the city of New York. His chief object at this time was to obtain a charter for a Bank to relieve his own necessities, accommodate his friends, and raise up a rival mercantile influence, that might be wielded to the promotion of his projects. He is described as practising in that body, with the greatest assiduity, all his insidious wiles, drawing the unscrupulous into his secret cabals, putting forward others, rarely appearing as the advocate of his own desired objects, appealing to the State pride of New York, exciting individual jealousies, awakening individual hopes, infusing his poison into the very sources of legislation. By these arts he attained his purpose; and availing himself of discontents, resulting partly from the temper of the Governor, by sowing dissensions among his supporters, he laid the foundation of

that wide schism which Hamilton in vain sought to prevent.

Through a devoted adherent,* a resolution was offered, tendering the thanks of the Legislature to Adams for his nomination of Murray. It was rejected, but his object was attained. He well knew that its proposal would conciliate the President, at war with himself and with his former friends, and encourage his expectations of democratic support. If rejected, it would widen the subsisting breach among the Federalists. If adopted, it would sanction a policy many abhorred. But his stratagems required time to ripen their results. The city of New York was carried by a large Federal majority. The State power consequently remained with that party.

During this session of the legislature an act was passed for the gradual emancipation of slaves. This subject of dangerous interest had come before Congress more than once. With the discretion which marked the character of the Federalists, and with a due regard to the rights of the Southern States under the Constitution, a fixed purpose was shown not to put at hazard the peace of the nation. It is to the Democratic masses, stimulated into activity by Jefferson against the conservative portion of the community, the Southern States are indebted for the disturbing influences they have irritated and deprecate.

In Virginia, the public mind had undergone a great change, notwithstanding the unwearied exertions of the unscrupulous men who had directed the arrogant and jealous prejudices of that then important community against the General Government, since its very origin. The debates on the Alien and Sedition laws had there produced much excitement. It was kept up by the inces-

* Swartwout.

sant harangues of the small politicians with whom that commonwealth was more infested than any other—who, secure of a meagre subsistence from the hands of their slaves, lounged away their lives, descanting on the value and the perils of liberty, and approving themselves to the ignorance and indolence of its inhabitants, as alone equal to the care of the Republic. The original and inherent privileges of the natural man—the modified rights of the social being—the charter of nature and the charter of society—the original compact—what it was, and where it is? how far power could be delegated, and when resumed? the nature and extent of the responsibility of the representative to his constituent—the rights of petition and of instruction—the reserved rights of the States and of the people—how much was expressed, and how little implied in the Federal Constitution? what were its powers, and how each power was to be guarded from its incidents? could an incidental power be grafted on an incidental power? the meaning of words in their political, other than in their common sense. What was a "necessary" law, and what a mere convenient one? If construction was ever admitted, how it was to be construed? Where liberty ends, and where tyranny begins?—these themes were made the winding passages of that political philosophy which pronounces nothing certain that is not defined, and of which the definitions were more vague than the ideas. These were the labyrinths which led to the inmost recesses of what they proudly boasted as the "Virginia School," of which the dogmatic teachers, smiled at, while they cherished, the illusions of their followers.

These inexhaustible topics tormented the fevered brain of that State, and mingled with alarms of "standing armies—heavy taxes—sinking funds—unlimited executive patronage—the harbingers of monarchy, tyranny and

usurpation," * drove its maddened people to the verge of revolution, at a moment when their true interests demanded constancy, union, an earnest support of the constituted authorities.

Full as had been her assurances to Gerry, the conduct of France proved, that by her professed desire to treat, she meant no more than a delusive promise of peace. Her depredations continued, and when checked by the gallantry of the infant navy, one of the agents of the Directory issued an order to the French cruisers to pursue, seize, and capture without distinction, all American vessels public or private.

The popular feeling of the country at large, cheered by the superior prowess of its little navy, was braced for war. But Hamilton's advices from Europe apprised him that there would be no war with France; that the United States were doomed, under the name of peace, to further chicane, degradation, and injuries. Difficult as such a contest had been to him, when aided by all the prudence and influence of Washington, he could less hope to protect the rights and dignity of the nation, under a President warped by selfishness, blinded by vanity, and swayed by passion. But it was possible, that events in Europe or casualty might early produce a war, and, if this should not be, he did not doubt, that France would occupy Louisiana at the first opportune moment.

To anticipate this immense, this immeasurable evil, Hamilton still believed was the truest policy—an opinion in which Washington fully concurred. In a letter to Governor Trumbull, expressing his great satisfaction at

* Circulars breathing insurrection, from one of which this language is quoted, were distributed throughout Virginia, and among the insurgent counties of Pennsylvania.

the progress of the public sentiment, the late President observed:

"It is unfortunate, when men cannot, or will not, see danger at a distance, or, seeing it, are undetermined as to the means which are necessary to avert or keep it afar off. I question whether the evil arising from the French getting possession of LOUISIANA and the FLORIDAS would be generally seen, until felt; and yet no problem in Euclid is more evident or susceptible of clearer demonstration. Not less difficult is it to make them believe, that offensive operations oftentimes are the surest, if not in some cases the only means of defence." *

Having declined the actual command, Washington placed the charge of the military affairs in Virginia, the Carolinas, and Georgia, under Pinckney, and allotted to Hamilton the residue, embracing the garrisons on the Western lakes, the troops in the North Western territory, including both banks of the Ohio, and upon the Mississippi, and the army under Wilkinson. The obvious purpose of this distribution of the command was the contemplated descent upon New Orleans.

Early in the year Hamilton wrote to the Commander-in-chief, that "in conformity with his ideas, he had directed General Wilkinson to repair to the seat of Government, in order to a more full examination of the western

* Governor Trumbull at this time urged Washington to serve a third term, lest the next election of President should have "a very ill-fated issue." Washington had written to him, "the late changes in the Congressional representation sufficiently evince this opinion, (the progress of public sentiment,) for of the two sent from the State of Georgia, one certainly, some say both, are Federal characters. Of six from South Carolina, five are decidedly so—of ten from North Carolina, seven may be counted upon—and of nineteen from Virginia, eight are certain. I mention these facts to show that we are *progressing* to a *better state of things*—not that we are *quite right yet*. Time, I hope, will show us the necessity, or at least the propriety, of becoming so. *God grant it and soon.*" Yet it has been intimated that Washington was not a Federalist!!

scene, and to the concerting ulterior arrangements." Washington, in reply, lamented the delay in recruiting the army. General Hamilton ordered Wilkinson in the first place to repair to Philadelphia, observing in reference to the disposition of the troops under his command:

"the confidence in your judgment has probably led to the reposing in your discretion, powers too delicate to be intrusted to an officer less tried—capable, perhaps, of being so used as to commit prematurely the peace of the United States. Discretions of this tendency ought not to be transferred, beyond what may be indispensable for defensive security. Care must be taken that the nation be not embroiled, but in consequence of a deliberate policy in the Government."

The charge of the troops was confided by Wilkinson to Colonel Hamtranck, an officer of the Revolutionary army, who wrote to Hamilton:

"It is impossible for me to express the joy and satisfaction I received, when I first heard of your having once more taken up that sword, which has rendered your name so dear to American posterity, and your fame so immortal in the annals of the American Revolution."

Late in the Spring, Wilkinson reached New York. Hamilton then submitted to him "Heads of Conversation." * These embraced "the disposition of the Western inhabitants towards the United States and foreign powers; the disposition of the Indians in the same aspects; the disposition of the Spaniards in our vicinity—their strength in number and fortifications—the best expedient for correcting or controlling hostile propensities in any or all of these quarters, including the best defensive disposition of the Western Army, embracing the country of Tennessee and the Northern and North Western lakes, and having an eye to economy and discipline—the best

* Hamilton's Works, v. 247.

mode (in the event of *a rupture with Spain*) of attacking the two Floridas—the troops, artillery, &c., requisite—the best plan for supplying the Western army with provisions, transportation, forage, &c., and the best arrangement for command, so as to unite facility of communication with the seaboard, and the proper combination of all the parts under the General commanding the Western army." A report on these subjects was some time after submitted to him by Wilkinson. In this document, the ease with which the French inhabitants of Louisiana might wrest it from the Spanish authorities, and the difficulty of dislodging an effective force, led to the conclusion, that "the most cheap conclusive plan would be the capture of New Orleans," in case circumstances should warrant it.

Previous to this interview, information reached the United States of a rupture in the French Councils, which Hamilton had predicted. Grown confident by the internal dissensions of the Directory, and emboldened by its military reverses, the Council of "Five Hundred" publicly demanded of the Directory a statement of the causes of these events. They did not reply. A new demand was made, and a declaration added, that the Councils would remain permanent until an answer was given. The Directory also declared itself permanent. After a violent debate, the Council suspended the dictatorial power over the journals, and issued a decree to ensure the liberty of the Press. This procedure was decisive of the fact, that the coalition which had been forming at Paris was complete. It was followed by a revolution in the government. Reubel, only less infamous for his rapacity, than Merlin, was removed by the lot of succession—Merlin, Trielhard, Lepaux, were compelled to resign. Barras alone remained; and was associated in the new appoint-

ments with Siézes and three other colleagues, men of little weight.

Should this new body maintain itself, the known opinions of Siézes left no ground to suppose, that the policy of France as to the United States would be changed. But the circumstances which attended this revolution, indicated that the power of the new Directory would be of short duration.

Apprehensions of new terrorisms, fiscal embarrassments, private distress, combined with the ill success of their arms, had produced this change. The former evils could not be now corrected; and it was obvious, that a predominance over the rival factions could only be maintained by the ascendency of a high military genius, equal to a contest with the combined powers of Europe. But whence, in such a contest, was aid to be expected? At this moment clouds hung over France in every quarter of the horizon. In Egypt, it was doubtful whether the legions of Bonaparte could escape entire destruction. Naples was retaken. Throughout Italy, the successes of the allies, led by Suwarrow, were almost uninterrupted; and every thing indicated the expulsion of the French armies. Though they still maintained themselves in Switzerland, it was with efforts which, unless invigorated by reinforcements, proved that their career there must also be of short duration. Holland could no longer yield them tribute. Without credit or extorted contributions from their defeated enemies, no other expedients remained to supply their finances, exhausted by profusion and rapacity, than renewed confiscations and a forced loan—measures not easy to be accomplished at a moment when the insurrection in the western provinces of France was rapidly extending. The American Minister at the Hague, viewing the state of France from a near sta-

tion, believed that the Republic would not survive six months.

This change in her government rendering her policy towards this country wholly uncertain, Hamilton the more felt the importance of energy in its military preparations. Having recently completed the arrangements for the recruiting service, he wrote to the Secretary at War on the twenty-seventh of June.

From this letter it will be seen that he was still intent upon the acquisition of the Floridas and Louisiana, with an onward view to South America.

"It is a pity, my dear sir, and a reproach, that our administration have no general plan. Certainly there ought to be one formed without delay. If the chief is too desultory, his ministers ought to be the more united and steady, and well settled in some reasonable system of measures.

"Among other things, it should be agreed, what precise force should be created *naval* and *land*, and this proportioned to the state of our finances. It will be ridiculous to raise troops, and immediately after to disband them. Six ships of the line, and twenty frigates and sloops of war, are desirable—more would not now be expedient. It is desirable to complete and prepare the land force which has been provided for by law. Besides eventual security against invasion, we ought certainly to look to the possession of the FLORIDAS and LOUISIANA, and we ought to squint at SOUTH AMERICA.* Is it possible that the accomplishment of these objects can be attended with financial difficulty? I deny the possibility. Our revenue can be considerably reinforced. The progress of the country will quickly supply small deficiencies; and these can be temporarily satisfied by loans, provided our loans are made on the principle that we require the aliment of European capital, that lenders are to gain, and their gains to be facilitated, not obstructed. If all this is not true, our situation is much worse

* It is stated that the original letter, of which this is a copy, was produced and read in the Senate during the debate on the annexation of Texas—that the debate was for a moment suspended, while the Senators were looking at the letter, and that it had great influence in deciding the result.

than I had any idea of. But I have no doubt that it is easy to devise the means of execution. And if there was everywhere a disposition, without prejudice and nonsense, to concert a rational plan, I would cheerfully come to Philadelphia and assist in it. Nor can I doubt that success may be insured. Break this subject to our friend *Pickering*; his views are sound and energetic; try together to bring the other gentlemen to a consultation. If there is everywhere a proper temper, and it is wished, send for me and I will come."

He soon after again wrote to him:

"The clothing and equipments of the army are undergoing a systematic revision. Nothing has been altered or established in regard to the artillerists. The practice at different posts is various. I have directed part of the troops to be instructed in the French method to enable me to compare that with the former method, and to decide which is preferable. Present conviction is, that a separation between the Engineering and Artillery branches is necessary to the perfection of each."

It was subsequently made. In another letter, he urged that a troop of horse be

"raised as a stock on which to ingraft a system of tactics for the Cavalry. Hitherto it may be said we have had none. Improvements are going on in Europe. This particular *arm* is not brought to perfection even there. Opinions are somewhat unsettled. It is very desirable to have an organ by which we can essay the various plans, and upon which we can establish the model of a good system."*

Subsequently, he drew an outline of the duties of an Adjutant-General—was engaged on a plan for the Organ-

* This measure being submitted to the President, Adams wrote, "I have no objection to the plan you propose. 'Our means.' I never think of our means without shuddering. All the declamations as well as demonstrations of Trenchard and Gordon, Bolingbroke, Bernard and Walpole, Hume, Burgh and Burke, rush upon my memory and frighten me out of my wits. The system of debts and taxes is levelling all government in Europe. We have a career to run, to be sure, and some time to pass before we arrive at the European crisis, but we must ultimately go the same way."

ization of Volunteer corps—furnished a statement of the articles of Supply requisite for a regiment of infantry—gave a rule for the allowance of barracks and quarters—prepared forms of muster and pay-rolls—remarking:

"Brevity was the principal motive of them. In all military documents it is desirable to consult conciseness as far as it may comport with perspicuity and accuracy. Military men in the midst of active operations have little leisure for writing."

He also framed regulations as to officers' servants, observing, that he inclined

"to the practice of the great Frederick, to let the officer in time of peace be served by the soldiery—in time of war by supernumeraries, specially enlisted for the purpose, and discriminated by a distinct uniform or livery, forbidding the soldiers in the ranks to be employed for this purpose."

These were followed by observations on promotions to the several ranks of Generals, advising that they be eligible indiscriminately, "or without distinction of the officers of one corps from another."

He also gave his views on the subject of "Relative rank," and drew up an outline of regulations as to General Courts Martial, and subsequently devised a plan for completing the Regiments, all other expedients having failed, by a system of annual drafts, offering a bounty for re-enlistment, near the expiration of each year.

An act was also drawn by him for better organizing the corps of Artillerists and Engineers. This proposed a corps to be composed of a regiment of Engineers, a regiment of horse artillerists, and a regiment of foot artillery—separating the functions of the Engineers and Artillerists.* He next proposed the establishment of a corps of Inva-

* Hamilton's Works, v. 280.

lids, and a provision for the maintenance and education of the children of persons in the army and navy.

"Policy, justice and humanity," he observed, "forbid the abandoning to want and misery men who have spent their best years in the military service of a country, or who in that service have contracted infirmities which disqualify them to earn their bread in other modes. Employment might be found for such a corps which would indemnify the public for the mere maintenance of its members in clothing, lodging and food. The United States is perhaps the only country in which an institution of this nature is not to be found, a circumstance which, if continued, will be discreditable. The Establishment as to children is recommended by similar motives, with the additional consideration, that they may be rendered useful members of society, and acquisitions to the army and navy."

He had previously submitted a plan for connecting the different parts of the military system, and had advised the introduction of a regulated correspondence with the army. He now remarked:

"that the want of a proper organization of agents in the various branches of the public service, and of a correct and systematic delineation of their relative duties, have been a material cause of the imperfect results which have been experienced. It continues to embarrass every operation; and while it lasts, cannot fail to enfeeble and disorder every part of the service."

The agents he had in view, were either certain Officers or Boards, to be established at the seat of government—such as "a Board of Ordnance—a Superintendent of Military Stores."

"No one," he remarked, "better knows than myself, the obstacles in the way of both system and punctuality, when we were without an efficient Government, and in the first stages of a new, though more adequate political establishment; but, happily, the progress of our affairs (as I trust and believe) puts it in the power of our administration to remedy former defects, and to give vigor and consistence to the institutions which respect the defence and security of our country."

In other bosoms, other feelings reigned. When the intelligence of the revolution in the Directory arrived, the President was at Quincy; it being his habit, in despite of frequent and earnest appeals, to spend a great part of each recess of Congress at his own private residence.* His ministers addressed him a letter, through the Secretary of State, communicating the information, and submitting to his consideration, whether that event ought not to suspend the projected mission.

"Another Revolution," Hamilton observed, "Another Constitution overthrown. Surely here was reason for a pause, at least till it was ascertained that the new Directory would adhere to the engagements of its predecessors, and would not send back our envoys in disgrace. The recent revolution was a valid motive for it. Definitive contracts between nations, called real treaties, are binding, notwithstanding revolutions of government. But to apply the maxim to ministerial acts, preparatory only to negotiation, is to extend it too far; to apply it to such acts of an unstable revolutionary government, is to abuse it. Had any policy of the moment demanded it, it would have been not at all surprising to have seen the new Directory disavowing the assurance which had been given; and imputing it as a crime to the ex-Directors, on the pretence that they had prostrated the dignity of the Republic by courting the renewal of negotiation with a government which had so grossly insulted it."

Neither these considerations, nor the advice of his Cabinet officers, had any abiding influence with Adams, though, for a moment, he was in favor of delay. He declared that he had

"no reason or motive to precipitate the departure of the envoys,"—that he was "well aware of the possibility of events, which may decide

* "Is the President," Washington wrote McHenry, confidentially, "returned to the Seat of Government? When will he return? His absence (I mention it from the best motives) gives much discontent to the friends of government, while its enemies chuckle at it and think it a favorable omen for them." Aug. 11, 1799.

a suspension, for a time, of the mission, very proper. France has always been a pendulum. The extremest vibration to the left, has always been suddenly followed by the extremest vibration to the right. I fear, however, that the extremest vibration has not yet been swung. Upon this subject, I solicit your confidential communications by every post. As I have ever considered this manœuvre of the French," (the overture through Murray,) "as the deepest and subtlest which the genius of the Directory and their minister has ever invented for the division of our people, I am determined, if they ever succeed in it, the world shall be convinced, that their success was owing either to want of capacity or want of support." *

He had directed the Secretary of State to prepare the Instructions for the envoys. A few days after, the prevalence of an epidemic at Philadelphia induced the removal of the public offices to Trenton. The Secretary of State transmitted to him, from this place, on the tenth of September, the draft of the Instructions to the envoys, prepared conformably to the opinions of the heads of Departments. He communicated to him, the next day, a letter from Murray, stating the change of the government of France, which advice, he observed, "suggested some doubts of the expediency of the departure of the envoys." The President was urged to repair to Trenton, there to decide, in concert with his Cabinet, as to the suspension of the mission. On the sixteenth of September, he wrote to Pickering:

"The revolution in the Directory, and the revival of the clubs and private societies in France, and the strong appearances of another reign of democratic fury and sanguinary anarchy approaching, seem to justify a relaxation of our zeal for the *sudden* and *hasty* departure of our envoys."

Two days later, Ellsworth, Chief-Justice, consulted

* Adams's Works, ix. 20—to Benjamin Stoddert—4 Sept., 1799.

him as to the probability of his departure. The President answered on the twenty-second: "The convulsions in France, the change of the Directory, and the prognostics of greater change, will certainly induce me to postpone, for a longer or shorter time, the mission to France." He was willing to defer the departure of the envoys "even to the first of November." Ellsworth, concurring with a majority of the Cabinet, then proposed to meet him at Trenton, "to receive as fully any communication of your views as you may wish to make, should you continue inclined to such suspension of our mission, as, under present aspects, universal opinion, I believe, and certainly my own, would justify." Adams at last repaired to Trenton, which he reached on the tenth of October.

On that day the important election of Pennsylvania was held. Adams remained silent as to his intentions. His Cabinet awaited his call for a consultation. None was given. The result of that election was soon after ascertained. It was apparent, from the returns received on the twelfth of this month, that the Federalists had lost the State. The next day, advices were received of the landing of a British army in Holland, of the surrender of the Dutch fleet, and of the probable subversion of the French government. These advices made no impression on Adams. Looking to a nearer, more interesting personal object, he waited fuller intelligence of the result of the Pennsylvania election; and being confirmed in his belief, that the vote of this great State had been given in opposition to him, he resolved again to endeavor to propitiate his opponents. His action was as sudden as his decision. He convened his Cabinet to meet him on the evening of the fifteenth. They met at this unusual hour. The instructions to the envoys were considered, and finally settled near midnight. The next morning,

soon after the break of day, without any advices of a change in the councils of France, and without any intimation to his cabinet of a change in his recently expressed opinion, that the mission should be suspended,* he gave orders that the Commissioners should proceed on their mission "by the first of November, or sooner, if consistent with their convenience." The important question of their departure, it was supposed, would have been submitted to the cabinet. But as to this they were not consulted. Adams alone, at a moment which he pronounced one "of the most critical, important, and interesting that had ever occurred," † alone considered and alone decided. He assigned as a reason for his silence, that he had long deliberated on the subject, had made up his mind, and this was unchangeable. ‡

"Would it not," Hamilton asked, "have been more prudent to have kept his judgment in some degree of suspense, till after an interview and discussion with his ministers? Ought he to have taken it for granted, that the grounds of his opinion were so infallible, that there was no possibility of arguments being used which were sufficient to shake them? Ought he not to have recollected the sudden revolution which his judgment had undergone in the beginning of this affair, and to have inferred from this, that it might have yielded in another instance to better lights? Did not the intimation respecting a suspension of the departure of the envoys imply that this would continue until a change of circumstances?"

* "The President was silent on the question whether the mission ought to proceed. The instructions were settled in a consultation which terminated after 11 o'clock in the evening. The next morning, before breakfast, the President informed the Secretary of State, by letter, that he had decided that the envoys should depart immediately." Wolcott to Hamilton, Oct. 2, 1800. Gibbs, ii. 278.

† Adams's Works, ix. 39.

‡ "Thus," Wolcott wrote Cabot, "are the United States governed, as Jupiter is represented to have governed Olympus; without regarding the opinions of friends or enemies, all are summoned to hear, reverence, and obey the unchangeable fiat." Also Washington's Writings, xi. 572.

Adams defended the propriety of the mission, at different times, on different grounds. Sometimes he asserted that France would not accept the terms of the instructions,* and "that he should have to recommend a declaration of war;" and that thus public opinion would be united. "Sometimes, and most frequently, he vindicated the measure as one conformable with the general wish of the country for peace, and as likely to promote that desirable object."

His personal friends approved of the procedure, for the reason that a general peace in Europe during the approaching winter was probable, and that the interest of the United States required that they should have agents on the spot, an idea entertained by Adams himself. He insisted that the French Republic would last seven years, and desired that his prophecy might be remembered; and "in a casual conversation" with Hamilton (*after* his recent decision,) who "supported a different opinion, he expressed his expectations of a general peace during the coming winter." † "If," he said, "the negotiation did produce a war with England, England could not hurt us." ‡

But were the motives to the mission at that time sufficient, every question of delicacy and difficulty might have been avoided, by secret and confidential powers to

* Pickering to Washington, Oct. 24, 1799.

† Hamilton's Works, vii. 713. Hamilton to General Pinckney, New York, April 10, 1800: "I have heard nothing as to the impression made by our mission to France upon the combined powers, but I cannot doubt that it is a disagreeable one. And certainly the course of events lately has not said much for the good policy of the measure. This calculation of the President on a general peace this winter, as the main argument for what was done, proves, at least, to be as fallacious as I *ventured to predict to him, just after he had resolved to consummate the error.*"

‡ Pickering to Washington.

treat, given to one or more of the ministers, then resident abroad, with *eventual* instructions. Such a course would have saved the dignity of the country, and equally have served its interests. But it would not have satisfied the vanity, or have promoted the personal views of the candidate for a re-election by both adverse parties!

Circumstances occurred at Trenton strongly illustrative of the President's jealous temper. The sixth of October, Hamilton wrote to the Secretary at War: "General Wilkinson has just returned to this city, and will set out together with myself for Trenton on Monday, in order to settle definitively with you the arrangements for the western army." Pursuant to a preconcert of some date with Wilkinson, he proceeded to Trenton without any expectation of meeting the President, nor did he remain there a day longer than was indispensable to this object. Chief-Justice Ellsworth had also appointed to meet Governor Davie, his colleague, at the same place, to obtain such information as might be useful in their mission. This casual meeting offended Adams. It was regarded by him as "a mischievous plot against his independence," * though Hamilton's previous letters to the War department fully confirm his statement as to the motives of this journey.

On the twelfth of October, while there, he submitted a "Plan for the disposition of the troops of the United States into Divisions and Brigades." The four old regiments were to form one division and two brigades. The twelve new to form two divisions and four brigades. The principal objects he had in view were, the distribution of the troops by corps in contiguous or relative positions;—

* "Another fact is," Adams wrote, "that I transiently asked one of the heads of departments, whether Ellsworth and Hamilton came all the way from Windsor and Newark to Trenton, to *convince me* that I ought to suspend the mission."

the reduction of the number of Posts;—the obtaining a reserve force, which, being in a central position, would bear on various points either for succor or attack; and by its concentration, be capable of discipline and ready for active and efficient efforts;—the promoting economy by lessening the garrisons in the most remote stations.

The Post of Michilimackinac he viewed

"as one of the portals of the North-western territory, important to preserve an influence over the Indians, and which in time he thought would encourage the enterprises of American traders. The force on the Mississippi he would reduce, merely leaving sufficient to impress the adjacent foreign inhabitants, and to keep the Indians in check. The scale of the establishment did not permit an adequate body there to repel a serious attack from Louisiana; and less being out of the reach of succor, would for that reason be in imminent danger, would be still more inadequate to an offensive operation, and by its proximity, might create alarm and occasion reinforcement. A reserved force on the Ohio, at Louisville, would," he suggested, "be a rallying point for the smaller advanced body, in the event of an invasion from below, and also from the militia. If a rupture with Spain," he observed, "should induce us to become the invaders, the force assigned to the undertaking can rapidly descend the Mississippi, and being at a great distance, will have a better chance of masking their approach, and of arriving unexpectedly, than if stationed at a place which, by its nearness, would excite jealousy and vigilance."

A strong fortified post was advised, to guard the southern extremity of the Mississippi, both as an impediment to invasion by the Spaniards, and to have an impressive influence on the powerful tribes in the South-western territory; "though," he added, "by no means an advocate for multiplying, in the present circumstances of the country, the number of our fortifications, already too great, I entertain no doubt of the expediency of such an one at Loftus heights, and the object is well worth the

probable expense. For this work he proposed a plan and estimate.

Still looking to the possible invasion of Louisiana, he remarks:

"The position which has been chosen for the reserve corps has various aspects. It looks to the succor of the more northern as well as the more southern posts, and will be likely to control efficaciously the north-western Indians; it has an eye to a co-operation with the troops in the State of Tennessee, whenever a good communication shall be established, which is conceived to be an object of pressing moment; and it is convenient for a descent by the river Mississippi, for offensive operations against our neighbors on the South, if future circumstances should recommend them. But, as well with a view to defence as offence, it is deemed requisite to prepare and keep ready, below the rapids of the Ohio, a number of boats equal to the transportation of three thousand men, with baggage, stores, provisions, artillery, and other apparatus. The number and the estimate of their cost will be found herewith." "This reserved force," he wrote, was "deemed on all hands a cardinal object."

A firm occupation of the straits which connect Lake Erie with the Huron and Ontario, he likewise deemed a material point.

"It would seem to me," he remarked, "desirable ere long to have on each strait a work suitable to about a thousand men, with an interior work in the nature of a citadel, adapted to about two hundred. These might be expected to secure the place against a *coup-de-main* with a small force, and the growth of settlement in the vicinity will soon furnish, through the militia, the means of augmenting the garrison upon a sudden emergency. The good understanding which at this time subsists with Great Britain justifies an arrangement less efficient than that just intimated; but the permanency of friendship between nations is too little to be relied upon to render it prudent to look forward to more substantial precautions than are immediately meditated."

Fort Massac was also to be occupied, so as to command the confluence of the Cumberland and Tennessee with the Ohio, and of the Ohio with the Mississippi.

Previous to the presentation of this plan to the Secretary at War, Hamilton submitted it to Washington, whose reply is dated the fifteenth of September. Having stated that he saw no cause to differ as to the disposition of the troops, he observed:

"It may be remembered, that at the time the Secretary at War laid before the General officers in Philadelphia the letters of General Wilkinson, respecting the propriety (in his judgment) of placing a considerable force at the Natchez, I gave it my decided disapprobation, inasmuch as it would excite in the Spaniards distrust and jealousy of our pacific disposition, would cause an augmentation of force on their part; and so on with both, if our government would go into the measure, until the *thing* which was *intended* to be *avoided*, would, more than probable, be produced—that is, hostility—whereas, keeping that force in the upper country, besides its looking to *all* points, and exciting no alarm in any, might, if occasion should require it, either for defence or offence, descend the stream like lightning, with all its munitions and equipments, which could be accumulated with ease, and without noise at the upper posts, and make the surprise more complete."

Reasons are given in full for the preference of certain interior posts, and for the station of the reserved corps.

Hamilton's attention had been previously directed to the provision of winter quarters for the army. While at Trenton he proposed a plan of huts, containing directions as to their disposition in a cantonment—their size and materials—having due regard to the economy which the resources of the Government rendered necessary and to the accommodation of the troops.

CHAPTER CLI.

As soon as the necessary conferences with McHenry permitted, General Hamilton returned to New York, whence he wrote to Washington a private letter, expressing a prophetic apprehension (which was fulfilled) of the consequences of the President's recent decision.

"Dear Sir: * On my return from Trenton the day before yesterday, I found your private letter of the thirteenth, as well as your public letter of the fifteenth instant. The newspapers have probably informed you that poor Avery is dead of the yellow fever.

"The President has resolved to send the Commissioners to France, notwithstanding the change of affairs there. He is not understood to have consulted either of his ministers; certainly not either the Secretary of War or of Finance. All my calculations lead me to regret the measure. *I hope that it may not in its consequences involve the United States in a war on the side of France with her enemies.* My trust in Providence, which has so often interposed in our favor, is my only consolation."

Washington replied on the twenty-seventh:

"The purport of your (private) letter of the twenty-first, with respect to a late decision, has surprised me exceedingly. I was surprised at the *measure*, how much more so at the *manner* of it! This business seems to have commenced in an evil hour, and under unfavorable auspices; and I wish mischief may not tread in all its steps, and be the

* October 21, 1799.

final result of the measure. A wide door was open, through which a retreat might have been made from the first *faux pas*, the shutting of which, to those who are not behind the curtain, and are as little acquainted with the secrets of the Cabinet as I am, is, from the present aspect of European affairs, incomprehensible. But I have the same reliance on Providence which you express, and trust that matters will *end well*, however unfavorable they may appear at present.* With very great esteem and regard, your most obedient and affectionate

"GEORGE WASHINGTON."

Ten days after, Hamilton wrote to Wilkinson:

"The policy of our government towards Spain continues as heretofore pacific and conciliatory. You will of course give the same character to your proceedings as far as may depend upon you. I conform, in an especial manner, to the views of the administration, and to the deep impressions of my own mind, derived from a full consideration of the comparative resources and necessities of our country, when I recommend to you in every arrangement a critical regard to economy. Without it, our government cannot maintain the institutions or pursue the measures which are essential to its security and welfare. Without it, the condition of its military force can neither be respectable

* Washington had previously written to McHenry: "I think your wise men of the East have got yourselves into a hobble relatively to France, Great Britain, Russia, and the Porte, to which allow me the privilege of adding our worthy Demos—all cannot be pleased. Whom will you offend? * * * But to be serious, I think the nomination and appointment of ambassadors to treat with France would, in any event, have been liable to unpleasant reflections, (after the declarations which have been made,) and in the present state of matters in Europe must be exceedingly embarrassing. The President has a choice of difficulties before him in this business. If he pursues the line he marked out, *all* the consequences cannot be foreseen. If he relinquishes it, it will be said to be of a piece with all the other acts of the administration, unmeaning, if not wicked, deceptions; and will arm the opposition with fresh weapons to commence new attacks upon the Government, be the turn given to it and reasons assigned, what they may." He again wrote him: "Your confidential and interesting letter of the 10th instant came duly and safely to hand, with the contents of which I have been stricken dumb." Washington's Writings, xi. 468, and Appendix No. xxi.

nor satisfactory. The interest of the army, as a corps, concurs with that of the public at large to enforce the practice of economy as a primary duty. I entertain a full confidence that your conduct will always evince a due sense of its importance, and that it will not cease to be your study in this and every other matter to deserve the confidence and estimation of the Government. In regard to the citizens of the Western country, as far as your agency may be concerned, you will do every thing to foster good will and attachment towards the government of the United States. A FIRM and CORDIAL UNION is certainly the vital interest of every part of our country."

Public considerations weighed little with the opposition. As the Federal party gained strength in Congress, Jefferson became the more urgent to acquire influence in the State Legislatures. He consequently pressed his friends in Virginia to appear on that theatre of opposition. Madison, in compliance with his views, was elected to the House of Delegates in order to guide the policy which should be adopted.

Whether it was intended to push still further the opposition to the General Government, and to hazard a civil war; or merely to exert his influence in securing the electoral vote of that State to the Democratic party, would, it was supposed, depend on the course of events. That a change in the policy intended to have been pursued took place is to be inferred from a letter of Jefferson. On the seventeenth of November, he wrote to Madison:

"I inclose you a copy of the draught of the Kentucky resolves. I think, we should distinctly affirm all the important principles they contain, so as to hold to that ground in future, and leave the matter in such a train as that we may not be committed absolutely to *push the matter to extremities*, and yet may be free to *push as far*, as events will render prudent."

To arrange a concurrence of action between Virginia

and Kentucky, Nicholas, who was to go there, was invited to meet Madison at Monticello. This meeting, being dissuaded by Monroe, was abandoned. Jefferson, five days later, announced this change of purpose to Madison, observing, "Some late circumstances, changing considerably the aspect of our situation, must affect the line of conduct to be observed."

Intelligence was at this time received, that the envoys had sailed on the third of November. Jefferson learned the increased dissensions this measure had produced. He felt assured, that Adams was again looking to Democratic support, and that the Federal party must fall. Thus impressed, he wrote to Madison on the twenty-sixth of November in a more measured tone:

"I mentioned that new circumstances would require consideration as to the line of conduct they would require from us. Our objects, according to my ideas, should be these: First. Peace even with Great Britain. Second. A sincere cultivation of the Union. Third. The disbanding of the army on principles of economy and safety. Fourth. *Protestation* against the violation of the free principles of our Constitution—*merely to save them*, and prevent precedent and acquiescence from being pleaded against them. But nothing to be said or done which shall look or lead to force, and give any pretext for keeping up the army."

Nothing was to be done to "hoop" the opposition "together." His new counsels were implicitly followed. Madison prepared his "protestations."

The Virginia Assembly met early in December. The first important act was the appointment of a Governor. After a few preliminary observations, Madison nominated Monroe to that office. This selection was objected to by the Federalists, on the ground, that this "election would amount to saying, that the Executive had been wrong in recalling him, and in condemning his proceedings;" and, that, thus it would be a censure of Washington.

Madison, long absolved from the restraints of truth, defended the nomination, denying its imputed effect. He said, that "he did not agree with the gentleman last up as to the proposed election of Mr. Monroe being a condemnation of the Executive. It was well known, that ambassadors had often been recalled for *reasons unconnected with their diplomatic character*. Ambassadors had often been recalled, without being in the least censured. He was far from agreeing, that his mission had been injurious to his country, for in the most *delicate and important points, it had been successful!*" Monroe was elected in opposition to Breckenridge, having been also supported by Giles and Taylor. The next thing was to direct the patronage of the State so as to operate on the election of President. Callender, who had been outlawed by the High Court of Judiciary of Scotland, and recently had been convicted of a libel and imprisoned under the Sedition act, announced his intended publication of another political pamphlet, entitled "The Prospect before us," which Jefferson abetted. He was at this time associated with the editor of the "Examiner," who was elected printer of the State. The other appointments had a similar direction.

Giles now brought forward a topic which he strenuously pressed upon the Legislature; "the right of instruction," insisting, that the representatives of Virginia in Congress be instructed* to repeal the act interdicting

* In the discussion of a bill to renew the charter of the Bank of the United States, Giles, then representing Virginia in the Senate of the United States, remarked, "obedience to instructions is nowhere commanded nor disobedience of instructions anywhere prohibited by any written law or constitution. The opinion of the Legislature 'is not injunctive, compulsory or mandatory.'" He also commented on the "*injurious effects* of the practice of giving instructions by the legislatures of the States to Senators of the United States." The

commerce with France. The attention of the Legislature was next directed to the principal object of the party, the mode of choosing the electors of President.

Hitherto the election had been by districts, and one vote had been given to Adams. Had this mode of choice been continued, it was evident from the recent elections, the vote of the State would be much divided. Monroe consulted Jefferson on this subject. He answered him at large,* advising that the electors should be chosen by general ticket; and a bill to this effect was passed. This mode of choice was urged as a mean of countervailing the influence of other States, and as being more republican; for the reason, that by districts the people vote for one elector, while by general ticket they would vote for twenty-one, the whole power of the State. One feature in this law will be especially noticed. By this act, each elector was required to vote on a single paper for twenty-one State electors, and was also *required to endorse his name* on *the back* of his ballot. What fact more expressive, has occurred in the history of the Democratic party?

When this bill, thus defeating the intention of the ballot, the secrecy deemed necessary to freedom of suffrage,† had passed,‡ the legislature proceeded to consummate its purpose. They nominated the electors, among

object of the present motion was to control the recently chosen federal representatives.

* Jefferson's Works, iii. 430.

† Madison to Jefferson: "Giles proposed instructions to disband the army. The bill for a general ticket passed by only five votes. As the *avowed* object is to give Virginia *fair play*, I think, if passed into a law, it will, with proper explanations, become popular." January 9, 1800.

‡ Infra, vol. iii. 201: "The very genius and intention of balloting means," Hamilton observed, "that a man's vote should be *secret* and *known only to himself*."

whom were several of its own members—Madison, Giles, and Taylor. These men, to secure their own election, appointed a General and State Committee, and subordinate committees for each County. Thus the entire vote of the State was secured to Jefferson beyond the possibility of accident.

To keep up the excitement of the people, a report* was now presented by Madison, purporting to review the proceedings of some of the States, on the resolutions of the previous assembly, as to the Alien and Sedition laws.

New Jersey had dismissed these resolutions from consideration. Maryland stigmatized "the unwarrantable doctrine of the competency of a State government, by a legislative act, to declare an act of the Federal government unconstitutional and void." Delaware refused to consider them. Similar evidences of public opinion were given by the Middle and Eastern States.

These proceedings furnished an opportune occasion for reviving and increasing the hostility of the people of Virginia, an occasion seized upon with avidity. They were referred to a Committee, of which Madison was chairman, whose report was on the seventh of January agreed to by the House. The scope of this report had been some time previously determined by Jefferson, and an outline of its topics was communicated by him to Madison. In this outline, it will be seen that he contemplated an express reservation of a right of SEPARATION FROM THE UNION.†

* 5,000 copies of it, together with copies of the Declaration of Independence, of the Constitution of the States, of the Constitution of the United States, with its amendments, and of the Alien and Sedition laws, were ordered to be distributed throughout Virginia.

† Jefferson's Writings, iii. 428, Sept. 5, 1799, to Nicholas: "I had written to Mr. Madison, as I had before informed you, and had stated to him,

This Report * was in effect an address to the people of Virginia. It warned them against encroachments which would ultimately "devote a generous and unsuspicious people to a bondage under power usurped;" charged attempts to overwhelm their best hopes by false constructions of the Constitution, and by the "protean doctrine of implication;" that as the powers of Congress are defined and specified, powers inherent, *implied*, or expedient, were obviously the creatures of ambition, because the care expended in defining powers would otherwise have been superfluous. That the accused might, under the sedition act, give the truth in evidence, was pronounced "a flimsy veil," which would not disguise the unconstitutionality of the act, because "opinions, as well as *false facts*, are made punishable, and the truth of an opinion is not susceptible of proof." But whence does Congress, he asked, derive the power of "creating crimes

some general ideas for consideration and consultation when we should meet —a resolution or declaration 1, answering the reasonings" of the other States; 2, making firm protestation against the precedent and principle, and *reserving* the right to make this palpable violation of the Federal compact the ground of *doing in future*, whatever we *might now rightfully do*, should repetitions of these and other violations of the compact render it *expedient*." . . . 3, "expressing in affectionate and conciliatory terms, our warm attachment to union with our sister States, &c. Mr. M., who came as had been proposed, does not concur in the reservation proposed above; and from this I recede readily, not only in deference to his judgment, but because, as we never should think of *separation*, but for repeated and enormous violations, so these, when they occur, will be cause enough of themselves. To these topics, however, should be added animadversions on the new pretensions to a *common law* of the United States. *As to the preparing anything, I must decline it to avoid suspicions*, which were pretty strong in some quarters on a late occasion." He then urged Nicholas to do it for Kentucky.

* Jefferson to Burr, February 12, 1800: "Within a day or two, the resolutions of the Virginia Assembly will be printed here, and I will send you a copy. They were drawn by Mr. Madison. I am, with great esteem."

and inflicting punishments, provided they allow the accused to exhibit evidence in his defence? This doctrine united with the assertion, that sedition is a common law offence, and therefore within the corrective power of Congress, opens the hideous volumes of penal law, and turns loose the utmost invention of insatiable malice and ambition."

These arguments, it was alleged, also applied to the Alien act, "because there was nothing in the Constitution distinguishing between the power of a State to permit the residence of natives and aliens. It is a right originally possessed and never surrendered by the States. This act dispenses with the trial by jury—violates the judicial system—punishes without trial; and bestows upon the President despotic power over a numerous class of men. Will an accumulation of power so extensive in the hands of the Executive over aliens secure to natives the blessings of liberty?"

"The dangers of this constructive power have been seen in the fiscal systems and arrangements, keeping an host of wealthy commercial inhabitants embodied and obedient to the mandates of the Treasury; in mercenary armies and navies; in a volunteer militia rallied together by a political creed, armed and officered by Executive power, so as to rob the States of their constitutional right to appoint militia officers; in swarms of officers civil and military, who *can* inculcate political tenets tending to consolidation and monarchy; in the exclusive knowledge of an intercourse with foreign nations, enabling an Executive to guide public impressions by fragments of information colored to disgust or to deceive. These, with the corruptions in the representation, the suppression of the freedom of the Press—these were acts which left 'the artificers of monarchy to be asked what farther materials they can need for building up their favorite system?'"

The more to excite alarm, Taylor, the mover of these resolutions, proposed to bring in a bill to secure the members of the legislature against the operation of the Sedition

act, in case any resolutions or arguments were introduced in it to show that Congress had infringed the Constitution. It was entitled "An act to preserve freedom of speech." A law to protect the State Judges from the Sedition act was also declared to be in contemplation; and, as evidence that resistance was intended, should France afford the requisite aid, new taxes were imposed, and incipient steps were taken to levy the militia *en masse*.

The minority of the House of Delegates consisted of fifty-eight members. Feeling that the dangers these resolutions menaced were imminent, they issued a counter address. This eloquent document was at the time ascribed to John Marshall, who, though with Hamilton he disapproved the policy which had prompted the Sedition act, entertained no doubts of its constitutionality.

The example of the majority was deprecated as a deviation from legislative usage and as threatening disunion. The value and the benefits of the Union were briefly shown by adverting to the blessings which the Constitution had conferred, and to the prosperity a neutral policy had produced. The value of a Navy was illustrated by the protection it had already given to Commerce. The Constitutionality of the Alien and Sedition laws was vindicated, and the continued existence of the *Common law*, as the basis of the legislation of this country, fully shown.

One great fact in forming a judgment in respect to this report by Madison, ought to be remarked. It is, that the constructions of the Constitution therein objected to so vehemently were subsequently acted upon by the objectors. They are constructions, without which not merely this but any government would be impracticable. Madison's comments only serve to show the truth of Hamilton's observation in the opening number of the Federalist, that "a dangerous ambition more often lurks behind the spe-

cious mask of zeal for the rights of the people, than under the forbidding appearances of zeal for the firmness and efficiency of government."

Three days after this report was agreed to, instructions to the Senators from Virginia were passed, condemning the raising of the army, and urging its reduction within the narrowest limits compatible with the protection of the forts and the preservation of the arsenals, unless forbidden by information unknown to the public; "the prevention of any augmentation of the navy,—its reduction, and a proportionate reduction of taxes; a repeal of the Alien and Sedition laws; and the opposing of any law founded on or recognizing the principle, that the common law of England is in force under the government of the United States," reserving the very exceptions which the advocates of that doctrine had themselves admitted.

Hamilton was now engaged in his professional and military labors. The latter, from the want of system in the civil departments of the army, were extremely onerous. He resumed at New York the consideration of a plan of a water battery and other defences of the Western limits, on which he bestowed great attention. He drew a form of "Contracts," and stated the principles of construing them. He also gave the outline of a plan for the organization of the Quartermaster's department, and framed a body of "Regulations" relative to the uniform of the troops. His attention was likewise at this time bestowed on the quality and construction of the arms to be employed by the infantry and cavalry. In so recent an institution, many deviations from military requirements occurred which demanded correction; his correspondence on these occasions was frequent and full. In all his letters a judicious and provident economy is urged, to ensure which, he prepared regulations as to the several "Issues"

to the army and for the government of the war department in granting "Extra allowances." In the application of these regulations little judgment was evinced by the accounting officers. It imposed upon him often labored discussions and urgent remonstrances as to the necessity of exercising a wise discretion.

On one occasion, having controverted the policy, as a universal rule, of seeking Executive sanction for certain expenditures, he remarked:

"I commit myself without hesitation to the consequences of this opinion, because, as far as I am concerned, I had rather be responsible on proper occasions for formal deviations than for a feeble, insufficient and unprosperous course of public business, proceeding from an overscrupulous adherence to general rules. A different spirit will ever be found injurious equally to the interests of the State, and to the reputation and success of the persons whom it may govern."

General Pinckney was at this time in frequent conference with him at New York. The preparation of a system of Tactics was much required. In one of these interviews, General Hamilton mentioned his intention to prepare a code of tactics for the infantry, and urged Pinckney to frame those for the cavalry. "Who," said Pinckney, "will take charge of the artillery?" "Oh," Hamilton replied, "that I must do also; you know I began as an officer of artillery."

He subsequently wrote to the Secretary at War:

"The preparation of a good system for the tactics and police of the different portions of our army, is probably the most valuable service which it may be in my power to render the United States in my present station, and there are urgent reasons why this should be accomplished in the course of the present winter. To do it all would in every situation require the aid of others, since I do not pretend myself to understand in detail all the branches of service. To do it within the time proposed, or within any period not manifestly longer than it

would be prudent to delay, must render a subdivision indispensable, were I competent to the whole."

He then stated his intention to assume that of the Infantry, to confide to Pinckney the Cavalry system, and to employ certain officers as auxiliaries to that of the Artillery, while the Adjutant-General was charged with the regulations for "the police in camp, quarters, and garrisons."

"The labors of these different persons," he added, "will afterwards undergo revision for adoption or correction, and then will be transmitted to you for your consideration, and the determination of the President."

The prominent place General Hamilton now occupied, the more envenomed his adversaries. A review of the principal objections to the policy of the Administration, presented in Madison's resolutions of the preceding year on the Alien and Sedition laws, would show them to have been directed chiefly against his former associate and friend. His wakeful jealousy never slept. Hamilton must fall, whatever might be the effect of his own opposition and, of his present doctrines on the permanent interests of the country.

The recent course of the President, in some measure shielded him from the assaults of the Democratic party. They were not carried further than to keep up appearances. But against his Cabinet the attacks were unceasing and merciless. Charges of incapacity were mingled with criminations of their integrity. From general reproaches, their presses proceeded to specific allegations, all of which were without the semblance of truth. Colonel Pickering, the more obnoxious because of his firmness and frankness, was most calumniated. The purpose was manifest—by exciting public odium, to prepare for the great end in view, the dissolution of a Cabinet over

which Hamilton was believed to exert a controlling influence.

Much and often as he had been the object of acrimonious persecution, he had hitherto in most instances been content to rest the ultimate vindication of his measures on their results; but a charge of an odious character now moved him to resort to the laws. He addressed this letter from Philadelphia to the Attorney-General of New York:

"SIR: 'GREENLEAF'S NEW DAILY ADVERTISER' of this morning contains a publication, entitled 'Extract of a letter from Philadelphia, dated September 20th,' which charges me with being at the 'bottom' of an effort recently made to suppress the 'AURORA,' (a newspaper of this city,) by pecuniary means. It is well known, that I have long been the object of the most malignant calumnies of the faction opposed to our government, through the medium of the papers devoted to their views. Hitherto I have forborne to resort to the laws for the punishment of the authors or abettors; and were I to consult personal considerations alone, I should continue in this course, repaying hatred with contempt. But public motives now compel me to a different conduct. The designs of that faction to overturn our government, and with it the great pillars of social security and happiness in this country, become every day more manifest, and have of late acquired a degree of system which render them formidable. One principal engine for effecting the scheme is, by audacious falsehoods, to destroy the confidence of the people in all those who are in any degree conspicuous among the supporters of the Government; an engine which has been employed in time past with too much success, and which, unless counteracted in future, is likely to be attended with very fatal consequences. To counteract it is therefore a duty to the community. Among the specimens of this contrivance, that which is the subject of the present letter demands peculiar attention. A bolder calumny—one more absolutely destitute of foundation—was never propagated. And its dangerous tendency needs no comment; being calculated to inspire the belief that the independence and liberty of the press are endangered by the intrigues of ambitious citizens, aided by foreign gold. In so flagrant a case, the force of the laws must be tried. I therefore request

that you will take immediate measures towards the prosecution of the persons who conduct the inclosed paper."

The libeller was tried, convicted, and punished.*

This trial took place a short time before the meeting of Congress. Its session commenced on the second of December, seventeen hundred ninety-nine. The Federal ascendency in the Senate was undiminished. Sedgewick was chosen Speaker of the House, in which the majority of the Federalists was small. The Speech of the President presented few topics of interest. It mentioned the suppression of the recent insurrection in Pennsylvania; advised an amendment of the Judiciary system; adverted to the recent mission to France, and stated an interruption in the proceedings of the Commissioners under the treaty with Great Britain. The Address of the Senate indicated their dissatisfaction with him—that of the House, which ought to have braced the public mind, was temporizing, and of a nature to weaken the Federalists and to encourage the opposition.

A few days after, General Hamilton, having announced to the Secretary at War his intended visit, repaired to Philadelphia. Several objects of a military nature were facilitated by this interview, and Hamilton submitted to him the result of his previous reflections. Among other things, he advised that discretionary authority be given by law to the Executive to empower officers, other than those designated in the articles of war, to appoint General Courts Martial; and in order to relieve the President from perplexity, and insure efficacy by celerity of deci-

* "There can be no medium," Washington had written to McHenry, "between the reward and punishment of an editor who shall publish such things as Duane has been doing for some time past." He urged a prosecution. "It will have an unhappy effect on the public mind if it be not so."

sion, he suggested that the power of deciding upon sentences in capital cases should also be conferred on the Commanding General. But, at the same time, as the punishment of death for desertion during peace violated public feeling, he proposed that confinement and labor should be substituted.

A favorite object of his attention was likewise now matured. In the narrative of Hamilton's early life, it has been seen that a national provision for military instruction, was among the subjects under consideration at the time of framing a "Peace Establishment." Looking to the future of this country, and anxious to give an early development of all its institutions, Hamilton would then have organized a "Military Academy" on a small scale, but the want of fiscal resources forbade it. As chairman of the military committee, he then addressed a letter to Washington, asking his views as to the permanent arrangements for the army, and a call was made by the General on its chief officers. Among the opinions of these officers, that of Colonel Pickering, then Quartermaster-General, was the most pertinent. He suggested, if it were then practicable, that "a Military Academy" be established "at West Point," from among the graduates of which, vacancies should be filled.*

Hamilton, when organizing the Peace establishment, proposed, as the only expedient, the appointment of three professors, as part of the corps of Engineers. This subject was submitted to Congress in a plan for organizing the militia into three corps framed by the Secretary at War, during the second year of this Government. His suggestion not being acted upon, the President, in ninety-three, again adverted to it. The next year a "corps of

* April 22, 1783.

Artillerists and Engineers" was created, in which were contemplated the appointment of cadets, to be instructed in the military art. The subject was not again alluded to until December ninety-six, when, as has been stated, in the last speech of Washington, from Hamilton's pen, it was emphatically and formally placed before Congress, as an "Institution recommended by cogent reasons." The force of the opposition in the House of Representatives prevented the adoption of this measure.

Again, in ninety-eight, Hamilton sought to commence a system of military education, and by the act "for the better organizing of the troops," framed by him, thirty-two cadets were to be appointed, which was followed by the laws "to augment the army," in which "four Professors" were provided "for the instruction of the Artillerists and Engineers." This was far short of his purpose, and, at this time, as a part of his system of national defence, he submitted to the Secretary at War his "PLAN OF A MILITARY ACADEMY." *

"The near approach," he remarked, "of a session of Congress will naturally lead you to the consideration of such measures for the improvement of our military system as may require legislative sanction. Under this impression I am induced now to present to you some objects which appear to me very interesting, and shall take the liberty to add hereafter such others as shall have occurred.

"One which I have always thought of primary importance, is a MILITARY ACADEMY. This object has repeatedly engaged the favorable attention of the administration; and some steps towards it have been taken. But these, as yet, are very inadequate. A more perfect plan is in a high degree desirable.

"No sentiment is more just than this, that in proportion as the circumstances and policy of a country forbid a large military establishment, it is important that as much perfection as possible should be given to that which may at any time exist. Since it is agreed, that

* November 23, 1799. Hamilton's Works, v. 378.

we are not to keep on foot numerous forces instructed and disciplined. Military science in its various branches ought to be cultivated with peculiar care, in proper nurseries, so that there may always exist a sufficient body of it ready to be imparted and diffused; and a competent number of persons qualified to act as instructors to the additional troops which events may subsequently require to be raised. This will be, to substitute the elements of an army to the thing itself, and it will greatly tend to enable the Government to dispense with a large body of standing forces from the facility which it will give of forming officers and soldiers promptly upon emergencies.

"No sound mind can doubt the essentiality of military science in time of war, any more than the moral certainty, that the most pacific policy on the part of a government, will not preserve it from being engaged in war, more or less frequently. To avoid great evils it must either have a respectable force prepared for service, or the means of preparing such a force with expedition. The latter most agreeable to the genius of our government and nation, is the object of a Military Academy."

His first plan proposed five schools. "The Fundamental School;" "The School of Engineers and Artillerists;" "The School of Cavalry;" "The School of Infantry," and "The School of the Navy." These were subsequently, by consolidating the schools of cavalry and infantry, reduced to four. He contemplated a Director-General to superintend the whole institution—sub-directors to each School, with Architects and Instructors attached. The respective studies were defined. To extend the utility of the institution, he advised, that detachments of non-commissioned officers should be instructed in rotation; and a sufficient number of sergeants to suffice to an army of fifty thousand men. The site of the academy was advised to be upon a navigable water, to admit of exemplifications of naval construction and exercises; and in a position suited to foundries of cannon and manufactories of small arms. Thus the pupils could acquire the

knowledge of these arts, and the detachments of troops could be made useful in the prosecution of the works.

Though the studies of the Artillerists and Engineers were to be in one school, he advised that the entire union of them in one corps should be severed. With this view, while both corps were to be placed under one head—a General officer—the regiments were to be distinct; that of the Engineers to embrace a large number of officers and a corps of miners and artificers. The union under one head was intended to promote a spirit of harmony and co-operation, while the separation of the officers was designed to favor a more profound and accurate knowledge of each branch.*

In obedient deference to the Commander-in-chief, Hamilton also submitted this plan to his consideration. Washington replied:

"The establishment of an institution of this kind upon a respectable and extensive basis has ever been considered by me as an object of primary importance to this country; and while I was in the chair of government, I omitted no proper opportunity of recommending it in my public speeches and other ways to the attention of the legislature. But I never undertook to go into a *detail* of the organization of such an academy; leaving this task to others, whose pursuits in the paths of science, and attention to the arrangements of such institutions, had better qualified them for the execution of it.

"For the same reason I must now decline making any observations on the details of your plan; and as it has already been submitted to the Secretary of War, through whom it would naturally be laid before Congress, it might be too late for alterations, if any should be suggested. I sincerely hope that the subject will meet with due attention, and that the reasons for its establishment, which you have so clearly pointed out in your letter to the Secretary, will prevail upon the Leg-

* "But for West Point," the distinguished veteran, Lieutenant-General Scott observed, "I should never have reached the City of Mexico."

islature to place it upon a permanent and respectable footing. With very great esteem and regard, I am, &c., GEORGE WASHINGTON."

This letter, dated the twelfth of December, was the last from the hand of Washington. Thus terminated an intercourse, which had existed nearly a quarter of a century, between two men whose names can never be separated; and of which, the influence on the welfare of the American people cannot be estimated. On the thirteenth of December, Washington became ill; and on the fourteenth, sank under an acute disease, with faculties unimpaired, in dignified composure, near the close of his sixty-seventh year.

When the intelligence of this sad event, which astonished the nation, as though Washington was not born to die, arrived at Philadelphia, Hamilton was there. He was standing in conversation with Sedgewick the moment it was announced. Suddenly overcome, bursting into tears, he exclaimed, "America has lost her Saviour—I a father."

The President addressed Congress in brief and appropriate terms. The national legislature adopted resolutions expressive of their sense of his great worth. A commemorative oration was delivered by General Lee, and the anniversary of Washington's birthday was set apart for the American people to "testify their grief."

The duty of prescribing the funeral honors devolved upon Hamilton, as now in command. Referring to the orders of the President, he thus prefaced the command to the troops: "The impressive terms in which this calamitous event is announced by the President, could receive no new force from any thing that might be added. The voice of praise would in vain endeavor to exalt a man unrivalled in the lists of true glory. Words would

in vain attempt to give utterance to that profound and reverential grief which will penetrate every American bosom, and engage the sympathy of an admiring world. If the sad privilege of pre-eminence in sorrow may justly be claimed by the companions in arms of our lamented Chief, their affections will spontaneously perform the dear, though painful duty.

"'Tis only for me to mingle my tears with those of my fellow-soldiers, cherishing with them the precious recollection, that while others are paying a merited tribute to "the MAN OF THE AGE," we, in particular, allied as we were to him by a closer tie, are called to mourn the loss of a kind and venerable PATRON and FATHER."

When communicating this order to General Pinckney, Hamilton wrote:

"The death of our beloved Commander-in-Chief was known to you before it was to me. I can be at no loss to anticipate what have been your feelings. I need not tell you what are mine. Perhaps no friend of his has more cause to lament, on personal account, than myself. The public misfortune is one which all the friends of the government will view in the same light. I will not dwell on the subject. My imagination is gloomy, my heart is sad."

Having officiated as Chief Mourner at the funeral ceremony, Hamilton returned to New York, and soon after addressed this letter of condolence to the widow of Washington:

"NEW YORK, January 12, 1800.—I did not think it proper, Madam, to intrude amidst the first effusions of your grief. But I can no longer restrain my sensibility from conveying to you an imperfect expression of my affectionate sympathy in the sorrows you experience. No one, better than myself, knows the greatness of your loss, or how much your excellent heart is formed to feel it, in all its extent. Satisfied that you cannot receive consolation, I will attempt to offer none. Resignation to the will of Heaven, which the practice of your life en-

sures, can alone alleviate the sufferings of so heartrending an affliction.

"There can be few who, equally with me, participate in the loss you deplore. In expressing this sentiment, I may, without impropriety, allude to the numerous and distinguished marks of confidence and friendship, of which you have yourself been a witness; but I cannot say, in how many ways the continuance of that confidence and friendship was necessary to me in future relations.

"Vain, however, are regrets. From a calamity which is common to a mourning nation, who can expect to be exempt? Perhaps it is even a privilege to have a claim to a larger portion of it than others.

"I will only add, Madam, that I shall esteem it a real and a great happiness, if any future occurrence shall enable me to give you proof of that respectful and cordial attachment with which I have the honor to be, your obliged and very obedient servant."

Replying to Lear's * communication of his decease, he observed:

"NEW YORK, January 2, 1800.—The very painful event which (your letter) announces had, previous to the receipt of it, filled my heart with bitterness. Perhaps no man in this community has equal cause with myself to deplore the loss. I have been much indebted to the kindness of the General; and he was an *Ægis very essential to me.* But regrets are unavailing. For great misfortunes, it is the business of reason to seek consolation.

"The friends of General Washington have very noble ones.—If virtue can secure happiness in another world, he is happy. In this, the seal is now set upon *his* glory. It is no longer in jeopardy from the fickleness of fortune."

* Private Secretary of Washington.

CHAPTER CLII.

While the American people were paying homage to the memory of Washington, the leaders of the opposition were rejoicing at his decease. On the morning of his funeral obsequies, one of the most devoted partisans of Jefferson declared, "I am glad he is dead. We could not pull him down." *

Washington, it has been seen, alarmed at the dangers with which the Constitution and civil liberty were menaced, felt it a duty, at last, actively to oppose the Democratic party. The influence he exerted had gone far towards changing the politics of Virginia. A more extended exertion of that influence, it cannot be doubted, would have undeceived the mass of the people, and defeated the hopes of his opponents. While Washington lived, Jefferson could not have been President.

This barrier to their ambition being removed, all that remained was to widen the breach among the Federalists which their successful intrigues with Adams had opened.

A letter from Hamilton of this period, gives a brief but interesting view of the aspect of affairs.†

"It is indeed a long time, my dear sir, since I have written to you, and I feel my obligation to you for the continuance of your correspond-

* Macon to Hillhouse. † January 5, 1800.

ence, notwithstanding my delinquency. Had it been true that I had left every thing else to follow the drum, my delinquency would not have been so great. But our military establishment offers too little inducement, and is too precarious to have permitted a total dereliction of professional pursuits. The double occupation occasioned by these added military duties, and the attention which circumstances call me to pay to collateral objects, engage my time more than ever, and leave me less leisure to communicate with distant friends. If the projected cipher was established, I should now have much to say to you. But for this the arrangement is not yet mature. Soon, however, I hope to make it so, by forwarding to you the counterpart, which is in preparation. I must, however, give you some sketch of our affairs.

"At home, every thing is in the main well, except as to the perverseness and capriciousness of one, and the spirit of faction of many. Our measures from the first cause are too much the effect of momentary impulse. Vanity and jealousy exclude all counsel. Passion wrests the helm from reason. The *irreparable loss of an inestimable man* removes a control which was felt, and was very salutary.

"The leading friends of the government are in a sad dilemma. Shall they risk a serious schism by an attempt to change? or shall they annihilate themselves, and hazard their cause by continuing to uphold those who suspect or hate them, and who are likely to pursue a course, for no better reason than because it is contrary to that which they approve? The spirit of faction is abated nowhere. In Virginia, it is more violent than ever. It seems demonstrated, that the leaders there, who possess completely all the powers of the local government, are resolved to possess those of the National, by the most dangerous combinations; and, *if they cannot effect this, to resort to the employment of physical force.* The want of disposition in the people to second them, will be the only preventive. It is believed that it will be an effectual one. In the two houses of Congress we have a decided majority. But the dread of unpopularity is likely to paralyze it, and to prevent the erection of additional buttresses to the Constitution, a fabric which can hardly be stationary, and which will retrograde if it cannot be made to advance.

"In the mass of the people, the dispositions are not bad. An attachment to the system of peace continues. No project contrary to it could easily conciliate favor. Good will towards the Government, in my opinion, predominates; though a numerous party is still actuated

by an opposite sentiment, and some vague discontents have a more diffused influence. Sympathy with the French Revolution acts in a much narrower circle than formerly; but the jealousy of monarchy, which is as actual as ever, still furnishes a handle by which the factions mislead well meaning persons. In our councils, there is no fixed plan. Some are for preserving and invigorating the Navy and destroying the Army. Some among the friends of government for diminishing both, on pecuniary considerations.

"My plan is to complete the Navy to the contemplated extent; say six ships of the line, twelve frigates, and twenty-four sloops of war, to make no alteration for the present as to the military force; and, finally, to preserve the organs of the existing force, reducing the men to a very moderate number. For this plan, there are various reasons that appear to me solid. I much doubt, however, that it will finally prevail.

"The recent depredations of British cruisers, sanctioned in various instances by the Courts, have rekindled in many hearts an animosity which was fast being extinguished. Such persons think they see in this circumstance a new proof that friendship towards this country, on the part of Great Britain, will always be measured by the scale of her success. A very perplexing conflict of sensations is the result of this impression. I must hasten to a conclusion. It was unnecessary for me to have told you, that for the loss of our illustrious friend, every heart is in mourning. Adieu. God bless you.

"P. S.—Who is to be Commander-in-Chief? Not the next in command. The appointment will probably be deferred."

Jefferson arrived at the seat of Government on the thirtieth of December, resolved to strike an early blow at the chief object of his fear and hate. After the interval of one day, Nicholas introduced a resolution for the repeal of the acts creating and organizing the Provisional army, of which Hamilton was now in command. The leading inducements to this reduction were stated to be, the necessity of economy, the want of resources on which to obtain the loans necessary for its support, and the unavoidable increase of taxes, the burthen of which would fall chiefly upon the poor. The inefficiency of the force

raised to repel an invasion was adduced, to show that its continuance, even in such an event, would not compensate for the expense; and it was avowed, that militia were the only safe and adequate reliance. The probability of an invasion was denied; and it was asserted, that the existence of the army could have no influence on the policy of France. The resolution was supported by Gallatin, Macon, Nicholson, and Randolph.

Bayard, Harper, Lee, Marshall, and Otis opposed it. After a review of the conduct of France, which had compelled the administration to choose between measures of defence and of submission, it was asked whether any recent intelligence justified the abandonment of a system deliberately, though reluctantly adopted by the government, and sustained by the patriotism of the nation. The invasion of Egypt, when Turkey did not suspect any hostile intentions from the tyrants of France, was a fact which imposed upon the United States the duty of preparation. The valor of the militia, under favorable circumstances, was not denied; but the importance of a regular force was urged, as a body, in co-operation with which, the undisciplined strength of the country could alone be hoped to act with vigor and constancy. The ground on which the disbanding of the army was pressed, was the probability of a successful negotiation; and as it was enlisted to serve only during the existence of the difference with France, if a treaty should be concluded, the law raising it disbanded it. If not, war alone remained to them. Should France continue her aggressions, as a war on commerce was not a sufficient object, conquest alone could be intended. The result of the mission must soon be ascertained. Why, upon the contingency of its happy termination, incur such a risk to avoid the trifling expense of maintaining, for so short a period, the attitude in which they were?

The influence of the proposed disbandment on the negotiation was earnestly deprecated. If, after having raised an army, she were to see us discharge it without any change of conduct on her part, what must France infer? Either extreme imbecility in our Councils, or that the Government was unable to maintain this force; or she would perhaps draw an inference still more serious, that those whom she called and supposed to be her party in this country, had become more powerful than the government. It was a wise axiom, that a nation which would negotiate to advantage, should be prepared to fight. The resolution was founded upon an opposite principle, and was repugnant to experience and common sense. What would be our situation, if the army were now disbanded and at the end of three months France should declare war? Would a soldier return to the service of so feeble or so fickle a government?

The language of Adams, a short time before, shows his distrust of the success of his own measure, and confirms the wisdom of these cautions.

"I am much of your opinion, that we ought not to be surprised if we see our envoys, in the course of a few weeks or days, without a treaty. Nor should I be surprised, if they should be loaded with professions and protestations of love, to serve as a substitute for a treaty. The state of things will be so critical, that the Government ought to be prepared to take a decided part. Questions of consequence will arise, and among others, whether the President ought not, at the opening of the session, to *recommend to Congress* an *immediate* and *general declaration of war?*" *

This madness was restrained.

Adams had objected to previous preparations of defence, the effects of increased taxation, and the defect of

* Adams to Marshall, 4th September, 1800. Adams's Works, ix. 80.

resources. As to the alleged want of means, it was shown in the course of the debate, that the total deficit to be supplied would be less than four millions of dollars, while the revenue had increased in five years more than one-fifth in amount; and as to the oppressiveness of the burthen, the population was nearly six millions, the revenue nine and an half. Was a tax of less than a dollar and two-thirds on each individual a reason for abandoning the defence of the country? With a system of finance so efficacious, was the apprehension of incurring a debt of twenty millions to be indulged at such a moment? This would be the price at which they would buy the honor and safety of their country, the protection of their flag, and the security of their national rights. The resolution was rejected by a majority of one-fifth of the House.

A motion to amend the Sedition act was also rejected by a large majority, for the reason, that it would recognize the principles of the common law as a part of the law of the land.*

No motive was believed any longer to exist, in the view of the opposition, for conciliating the President. It was resolved to inflict upon him an early and an immedicable wound. Two resolutions were submitted to the House by Edward Livingston, which gave rise to a vehement acrimonious debate. The first of these was, that provision ought to be made for carrying into effect the twenty-seventh article of the treaty with Great Britain. The other called on the President to lay before the House the requisition for the surrender and other papers relating to the apprehension and delivery of a person named "Robbins," under that article of the treaty.

* Jefferson to Edmund Randolph. Jefferson's Works, iii. 425.

The motive to these resolutions was stated by the mover at much length—"That by a recent construction of this article, any person, even a citizen of the United States, on the requisition of a foreign power to whom he might have made himself obnoxious, being charged with a supposed crime, said to be committed in a foreign country, or even on the high seas under the immediate jurisdiction of our own courts, might be torn from his country, connections and friends, dragged to a distant land, and there fall an unprotected sacrifice to the political bigotry of a prejudiced Court, or the stern unrelenting severity of a military tribunal. He might suffer this, in defiance of the Constitutional provision which assured to him the intervention of one jury to charge, and of another to convict him of a crime. A letter, he said, was written by an officer at the head of one of the great Executive departments to a Judge, advising him how to act in a judicial case, arising under that article; and this advice proceeded from the President." On a subsequent day, a resolution was offered, declaring that the conduct of the Executive in relation to this transaction was conformable to the duties of the Government, as prescribed by the treaty with Great Britain.

A committee of the whole House reported, that the decision of the questions raised in this case was a dangerous interference of the Executive; and that the compliance of the Judge was a sacrifice of the Constitutional independence of the judicial power, and exposed the administration of it to suspicion and reproach.

These questions arose upon a proceeding before the District Court of South Carolina for the delivery to the British Consul, of a person charged with a murder committed on board a British frigate, whose name was "Nash," but who had assumed that of "Robbins." It

was there opposed, on the grounds that he was an American citizen, and therefore entitled to be tried by this country; and that the offence was committed on the high seas within the jurisdiction of the United States. The Judge decided, that it was immaterial whether he was an American citizen or not; that he was equally within the purview of the treaty, and ordered him to be delivered up. He was tried, convicted of piracy and murder, and was executed.

The delivery of this criminal to his own government had been a theme of the most violent denunciations against the President. His interposition was charged in the Democratic papers as an offence against the Constitution, as a violation of judicial independence; a heartless, cruel, and unauthorized sacrifice of an American citizen to the arbitrary power of the natural enemy of this country. And, adopting the language of popular clamor, it was, in this form, now attempted to be made the ground of legislative inculpation.

The great jurists of Europe had declared it to be a principle of the law of nations, that every State is bound to deny an asylum to criminals, and upon application and due examination, to surrender the fugitive to the foreign State where the crime was committed. At early periods of European history, stipulations had been made by treaty for the mutual surrender of fugitives from justice. The treaty with Great Britain contained such a stipulation. The President had only fulfilled the obligations that treaty imposed upon him.

Gallatin supported* the criminating resolution at great length. He was replied to by Marshall, in a speech which exhibited his commanding powers. A motion was then

* March 6.

made to discharge the further consideration of the subject. It passed, but it is a remarkable instance of the violence of political feeling, notwithstanding conclusive evidence had been presented to them of the falsity of the oath of the culprit as to the country of his nativity, that all but four members of the opposition voted in favor of this groundless censure of the President. To keep up the popular sympathies, it was publicly proposed, that a monument should be erected in honor of a man proven guilty of murder, perjury and piracy.

During these discussions, a resolution was brought forward to district the several States for the choice of electors of President, and of members of Congress. A bill was also introduced for the appointment of Admirals in the navy, and an act creating a Military Academy. Neither of these measures was adopted. The subject of a Military Academy was again brought forward in the succeeding year, when the resolution to reduce the army defeated it. But the year after, the bill "fixing the military establishment," carried into effect Hamilton's proposal to form of the Artillerists and Engineers each a distinct corps. The Engineer corps was to be stationed at West Point to constitute a Military Academy, of which the senior officer was to be superintendent.

In eighteen hundred and eight, in despite of his previous opinion that the measure was unconstitutional, Jefferson recommended an increase of the number of cadets and the transfer of the Academy to the city of Washington, which probably would have been fatal to it. A law was then enacted for this increase of cadets, but it did not attach them to the Academy nor provide for their instruction. The inefficiency of the institution continued. Two years after, Madison, who had also opposed the measure, when proposed by Hamilton, advised it, which advice he

repeated the following year, when on the eve of a war, an act passed fixing the number of cadets, and creating three professorships.

After the incidents of this war had shown the necessity of military instruction, and how much the public interests had suffered from the defeat of the early advances to this object, this Institution, under happy auspices,* commenced its career of usefulness. The regulations for its government previously matured were introduced, without change, in the "army regulations" subsequently framed by Winfield Scott. The wasting war in Florida, and the conquest of Mexico, by this distinguished soldier, this true patriot and accomplished citizen, are the best commentaries on its value.

The failure of the bills for the improvement of the naval and military arms of the government was the result of the conflict of parties. But a law was now enacted, not of a party character, which had been frequently a subject of consideration—of great importance in a commercial community. It was an act for the relief of bankrupts. This salutary and humane statute was violently opposed. It passed the House of Representatives only by the casting vote of the Speaker.

Another act, still more demanded by the rights of humanity, was passed, providing for the discharge of insolvents held under judgments in the Federal Courts. It was the prelude to the policy which has repealed the laws authorizing imprisonment for debt.

A bill was likewise offered for the amendment of the Judiciary system of the United States, which had been found inadequate to the administration of justice, and pro-

* Colonel Thayer was appointed Superintendent July 17, 1817. "History of West Point by Roswell Park."

ductive of great inconvenience. This bill proposed to reduce the number of the Judges of the Supreme Court to five, and to confine their duties to those of that Court; to increase the number of Circuit Courts, and to appoint a distinct corps of Circuit Judges. It did not at this time become a law.

Near the close of the session, it was ascertained that the American Commissioners had reached Paris early in March. Another revolution had placed Bonaparte at the head of the French government. His general policy had assumed, for the moment, a pacific character; and by various acts, he evinced a disposition to enter into amicable relations with this country. The envoys were received with ostentatious respect; and three Commissioners were appointed to treat with them, one of whom was a brother of the First Consul. The vessels improperly detained had been released, and the molestations of commerce were rare.

Should these indications be delusive, his disasters in Egypt, it was believed, would deter Bonaparte from an invasion of this country; and, in case the government of France again fell into the hands of the Jacobins, much time must elapse before they would be able to renew hostilities. Justified by these circumstances, the Federalists, who had been charged with sinister designs in the augmentation of the army, seized the earliest opportunity to discharge it. A bill was passed authorizing the President to disband it as soon as, in his opinion, the situation of affairs between the United States and France should render it advisable.

On the fourteenth of May Congress adjourned.

After his return from Philadelphia, Hamilton's military engagements became comparatively light.

His correspondence with the War Department was

frequent, but its topics were of minor importance; and the only feature of it which merits attention is the evidence it gives of his constant habit of applying to each question of magnitude which arose, some great leading principle, evincing his cast of mind.

Letters to him from Lafayette announcing the intended mission of Bernadotte to the United States, whom he describes as joining "to high and brilliant abilities, one of the most civic, generous, and candid hearts," had prepared him to expect a termination of the controversy with France. Though he saw his short military career approaching its end, no relaxation is seen in his performance of its duties. To the last moment of it, is to be observed a constant and close supervision of the economy of the establishment, and a vigilant regard to the interests of the army. The proper distribution of magazines for its supply, the conduct of the recruiting service, the propriety of indemnifying the officers for injuries sustained in the execution of their duties, were among the objects of his care. He was also, it appears, still pursuing his inquiries in relation to the system of tactics he had been employed in framing. . . .

He was nevertheless now enabled actively to resume his engagements at the Bar, and again added largely to his fame by frequent and signal triumphs of eloquence.

Amid all his labors, the political condition of the country had the commanding place in his mind. The conduct of the President had discouraged and divided the Federalists; and the policy to be pursued, in order to continue their ascendency, was extremely difficult.

The supporters of Adams were now ostentatiously claiming for him the merit of pacific counsels. Sentiments which, a short time before, were lauded as becoming an injured and insulted people—sentiments he had been

most loud in exciting, were denounced as indicating a passion for war, as springing from factious motives to retain an influence over the nation, and to promote the success of a rival candidate.

The tone of public feeling became daily weaker, and jealousy succeeded to the confidence, which had been reposed in the far-sighted and elevated men who founded, and were yet sustaining the government. Nor can this be a source of surprise. The remembrance of past services is short. The party of the selfish, and timid, and wavering, is not small.

As the aggressions on the American commerce became infrequent, the popular indignation towards France rapidly subsided, and her recent indignities were almost forgotten. The Democratic leaders seized upon this interval of relaxation in the public mind, asserted that the apprehensions of danger from that colossal power, had been artificially stimulated; denied that the hostile attitude of this country had influenced her counsels; and insisted, that whatever of evil the nation had suffered was to be ascribed to the errors and crimes of the administration.

Peace, the preservation of State rights, "freedom of religion, freedom of the press, trial by jury, an economical government," were claimed to be the interests espoused by them as opposed to standing armies, paper systems, war, and political connections with foreign nations," which it was asserted the Federalists had uniformly supported.* Their principles, Jefferson alleged, "go directly to a change of the Federal Constitution, to sink the STATE governments, consolidate them into one, and monarchize that." "The *enemies of our Constitution*," he wrote, "are preparing a

* Jefferson to Granger. Works, iv. 330.

fearful operation; and the dissensions in this State are too likely to bring things to the situation they wish, when our Bonaparte, surrounded by his comrades in arms, may step in to give us political salvation in his way." These charges, utterly groundless as this narrative has proved them to be, were industriously propagated, and extensively believed.

The Federalists appealed in their vindications to the understandings of the people, and conjured them calmly to review each of the series of their measures, which had so much elevated the character and promoted the prosperity of the Republic. The Democrats addressed the evil passions of the people, affrighting their imaginations with apprehensions of the future, and presented to them, as the only refuge, a change of rulers. Real blessings were in one scale—ideal injuries in the other. Change is always popular. The contest was hopeless.

CHAPTER CLIII.

Late in February, Hamilton wrote to Sedgewick, "When will Congress probably adjourn? Will any thing be settled as to a certain *election?* I observe more and more, that by the jealousy and envy of some, the miserliness of others, and the concurring influence of *all foreign powers*, America, if she attains to greatness, must *creep* to it. Will it be so? Slow and sure is no bad maxim. Snails are a wise generation."

In this discouraging state of things, it is interesting to advert to a private letter of Hamilton, exhibiting the state of his mind. His old comrade of the Revolution, Colonel Henry Lee, wrote to him from Congress: *

"It gives me pain to find you so despondent. Certainly you cannot regard the calumnies of your enemies. This to them would be high gratification. Nor ought you to despond of your country. We have heretofore prospered, when surrounded by infinitely greater difficulties, in contributing to which prosperity no man alive has done more than yourself. Be, then, more like yourself, and resist to victory, all your foes."

Hamilton immediately answered:

"You have mistaken a little observation in my last. Believe me, that I feel no despondency of any sort. As to the country, it is too

* March 5, 1800.

young and vigorous to be quacked out of its political health; and as to myself, I feel that I stand on ground, which, sooner or later, will ensure me a triumph over all my enemies. But, in the mean time, I am not wholly insensible of the injustice which I from time to time experience; and of which, in my opinion, I am this moment the victim. Perhaps my sensibility is the effect of an exaggerated estimate of my services to the United States; but on such a subject a man will judge for himself; and, if he is misled by his vanity, he must be content with the mortifications to which it exposes him. In no event, however, will any displeasure I may feel, be at war with the public interest. This, in my eyes, is sacred."

No concert as to the future was formed by the Federalists, indeed, a concert at this moment, will appear from subsequent occurrences to have been impracticable. In the mean time, every eye was directed to the State of New York.

Jefferson had written to Monroe,

"all will depend on the city election,* which is of twelve members. At present there would be no doubt of our carrying our ticket there; nor does there seem to be time for any events arising to change that disposition. There is, therefore, the best prospect possible, of a great and decided majority on a joint vote of the two Houses. They are so confident of this, that the Republican party there, *will not consent* to elect either by districts or a general ticket. *They choose to do it by their legislature!*"

After alluding to the prospects in New Jersey, he added,

"Perhaps it will be thought, I ought in delicacy to be silent on this subject. But you, who know me, know that my private gratifications would be most indulged by that issue which should leave me most at home. If any thing supersedes this propensity, it is merely the desire to see this Government brought back to its republican principles." He subsequently wrote to Madison, "the event depends on the

* City of New York.

three middle States before mentioned,"—Pennsylvania, New Jersey, and New York—"as to them, Pennsylvania passes no law for an election at the present session. They confide, that the next election gives a decided majority in the two Houses, when joined together—McKean, therefore, intends to call the legislature to meet immediately after the new election, *to appoint electors themselves.*"—"In New York all depends on the city election."—"If the city election of New York is in favor of the Republican ticket, the issue will be Republican. If the Federal ticket for the city prevails, the probabilities will be in favor of a Federal issue. The election being in April, it becomes an *early* and *interesting object.* Burr, Livingston, &c., entertain no doubt of the event."

To secure the vote of New York had been the chief object of Burr's exertions. Disliked by the Livingstons as a person neither to be persuaded, nor controlled,—hated by Clinton, for aspiring to be a competitor in his career of ambition,—contemned, distrusted, and feared by both, Burr had an embarrassing part to play. But this was an incentive to his exertions. While it gratified his love of intrigue, it flattered his busy vanity, and promised a double triumph to his ambition and to his hate. Under his personal supervision, the city was divided into districts and sections. The name of every resident was enrolled, his politics designated, the influences to bear upon him sought out. Committees and sub-committees organized for these purposes were put in motion. Obscure men, of inferior place, were cultivated to a new importance. Young men of the Federal party, disgusted with Adams, were courted. His residence became their rendezvous. Their self-consequence was flattered, their hopes of preferment encouraged; and, from amid wine and wassail, they went forth to do the biddings of an unscrupulous, dexterous juggler.

With all these efforts, it was still manifest, that success could only be secured by conciliating the two great sec-

tions of the Democratic party. To the concurrence of the Democratic branch of the Livingstons, in his views, strong inducements might be held out, if found indispensable, in the promise of office; but Clinton stood in a different position. Comparing his pretensions to the Presidency with those of either candidate, the late Governor could see no reason why he should be postponed; for who had been more hostile to the adoption of the Constitution? Contrasted with his ancient claims, he regarded Burr as a mere fledgling. As to Jefferson, his strong practical sense did not conceal its distrust and utter contempt of him. His co-operation with either aspirant involved a postponement, if not a sacrifice, of his own interests; yet how could it be withheld in this great contest, without a total abandonment by his party?

To succeed in the city of New York, it was important to form a ticket which would satisfy every dissenter from Federalism; Brockholst Livingston was selected to please one section; Clinton's name was necessary* to blind or pacify the mass. To avoid the odium his own nomination would excite, and, in order "that he might be free to act at the polls during the election,"† Burr was content to place on it a few persons devoted to his interests. The ticket was completed by the union with these, of Gates,

* Davis's Life of Burr, ii. 58. "No terms can give a correct idea of the scenes between Governor Clinton and the sub-committee, (composed in part of *Burr, Davis* and *Swartwout*,) for they had an interview with him *on three different days*. He never did consent to stand, but pledged himself that he would publish nothing in the newspapers, reserving to himself the right, which he subsequently exercised, of stating in conversation, that his name was used without his authority or permission. Thus, it is evident, that but for the matchless perseverance of Colonel Burr, the ticket, as it stood, never could have been formed, and when formed would have been broken up; and the republican party discomfited and beaten."

† Davis's Life of Burr, ii. 58.

then in his dotage, and of others who would not resist his mandates. Lest his personal influence should be lost, he was to be chosen to the Assembly by the votes of an interior county.

The vast importance of this election called forth the strenuous exertions of the Federalists. Those of Hamilton were unremitted. He often was present at the mingled assemblages of the people, and addressed them with ardent advice and expostulation; but the efforts of his eloquence and his personal popularity were vain. Adams had stricken the fatal blow. The Federal party was doomed to defeat.*

It is related, as an evidence of the power of Hamilton's appeals, that on one occasion a sturdy opponent rushed from the room where he was speaking, exclaiming, "Let me out! let me out! That man will make me believe any thing!" With a clearer conviction of the nature of the contest, another coolly observed, "General, our votes are stronger than your words."

While on the way to his country seat, Hamilton appeared at one of the polls on horseback. He was immediately assailed by the rabble, and scurrilous handbills were thrown in his face. A stout rough man in a carter's frock stepped up, and begged him to retire, as his appearing there on horseback was very offensive; and the excitement being great, he was exposed to personal violence. Hamilton thanked him for his interposition, but declined his advice, observing that "he had as good a right to attend the polls as any man, and must be permitted to do it in the mode most agreeable to himself." "Well," was

* "The administration of John Adams," Cabot wrote, four days after the envoys sailed, "so much extolled, will end by the transfer of the powers of government to the rival party." Gibbs, ii. 287.

the reply, "General, do as you please; I differ with you in politics, but I'll stick by you as long as I have a drop of blood in my body." "Thank you," Hamilton answered with a smile to him; then taking off his hat and bowing to the people, he said, aloud, "I never turned my back upon my *enemy*, and certainly will not flee from my *friends*." The effect was electric. In an instant "Three cheers for General Hamilton" burst from the tumultuous crowd. He dismounted to advance to the ballot boxes, when he was taken from the ground and borne to the poll on the shoulders of the people. He again addressed them a few words, was again greeted with cheers, and having deposited his ballot, rode quietly from the mob. What limits would there have been to the power of such a man, had he condescended to become a demagogue? How painful must have been his reflections on the instability of the populace?

The Democratic ticket succeeded. Hamilton immediately* wrote to Sedgewick:

"You have heard of the loss of our election in the city of New York. This renders it too probable that the electors of President from this State will be anti-Federal. If so, the policy which I was desirous of pursuing at the last election is now recommended by motives of additional cogency. To support *Adams* and *Pinckney* equally is the only thing that can possibly save us from the fangs of Jefferson. It is therefore essential that the Federalists should not separate without coming to a distinct and solemn concert to pursue this course *bona fide*. Pray, attend to this, and let me speedily hear from you that it is done."

This concert was entered into. It was "a compromise which contemplated Adams as President, *but liable to be superseded by Pinckney*, from the nature of the election,"

May 4.

in which those "who would think it by no means propitious to the national welfare that Adams should be re-elected, yield to the superior consideration of *union*, by which alone Jefferson can be kept out," and Adams or Pinckney elected—those averse to Adams "giving him all their support upon the *just expectation* of a similar support to Pinckney from those who prefer Adams." *

A letter from the Speaker of the House of Representatives informed Hamilton, that a meeting of the Federal members of that body had been held on the third of May, who urged that Jay, the Governor of New York, should be advised to convene its legislature, in order to enact a law authorizing the choice of the electors of President, directly by the people of that State. Hamilton answered on the eighth of that month:

"I thank you, my dear sir, for your letter of the fifth instant which was received yesterday. The measure you mention has been attempted, but without much hope of success."—"Our accounts from the Northward, apparently authentic, give us the strong hope of still having a majority in our legislature. But be this as it may, our welfare depends absolutely on a faithful adherence to the plan which has been adopted. New York, if Federal, will not not go for Mr. Adams, unless there shall be as firm a pledge as the nature of this thing will admit, that Mr. Pinckney will be equally supported in the Northern States." †

It has been perceived, that Hamilton had, in his plan of a Constitution, provided, that the election of President should be made by electors chosen by the citizens of each State, having prescribed qualifications. In his comments on this part of the Constitution, after approving the provision by which the right of making a choice of President

* Cabot to Hamilton. Hamilton's Works, vi. 458.

† Hamilton's Works, vi. 440.

was committed, "not to any *pre-established* body, but to men chosen by the people for the special purpose, and at the particular conjuncture," he observed, "nothing more was to be desired, than that every practicable obstacle should be opposed to CABAL, intrigue and corruption." "These most deadly adversaries of Republican government, might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils. How could they better gratify this than by raising a creature of their own to the chief magistracy of the Union? But the Convention have guarded against all danger of this sort, with the most provident and judicious attention. They have not made the appointment of the President to depend on *pre-existing bodies* of men, who might be tampered with beforehand to prostitute their votes; but they have referred it, in the first instance, to an *immediate act of the people* of America, to be exerted in the choice of persons for the temporary and sole purpose of making the appointment." Thus, it is seen, that he regarded the choice of electors by a State legislature, a *pre-established body*, not "chosen by the people for the special purpose, and at the *particular conjuncture*," as a mode not authorized by, but which would *defeat*, the objects of the Constitution. In this view, at the first election of President, he urged that the electors should be chosen by the citizens, stating that this "was a privilege which it was of the greatest importance should be in the hands of the people." He had also, during the preceding year, written to Van Rensselaer, the Lieutenant-Governor, on this subject. An effort in conformity with these views, it is seen, had recently been made in Congress to provide for districting the States for the express purpose of choosing electors of President, and had been defeated.

Hamilton was confirmed in his conviction of its importance by the open efforts of Adet, the French Minister, to operate directly on the election of Pennsylvania, in favor of Jefferson, and by the "cabals" and "intrigues" which had been recently successful in the city of New York—an election which he afterwards deliberately and publicly asserted, was carried by "a FOREIGN VOTE."

The very evils against which the Constitution had sought to guard, he believed were menaced in their most "deadly" form. The vote of the city of New York was obtained by the intrigues of one of the candidates for the Presidency—that candidate openly exerting himself at the polls to produce the election of a ticket formed by himself—that candidate elected by his partisans in a remote county,* a member of the body which was to appoint the electors, for the express purpose of influencing its vote—that candidate, a man who had been dismissed the circle of Washington—a man whom he had refused, though earnestly solicited, to intrust with a foreign mission, and who was subsequently engaged in a treasonable conspiracy against his country.

These high considerations determined Hamilton to obey the request which had been communicated to him from Philadelphia. The effort, if successful, would guard against great impending evils. It would fulfil the great end he had sought, when aiding to found the Constitution, and had eloquently approved in the Federalist.† "The fabric of American empire," he there said, "ought to rest on the solid basis of the CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that PURE ORIGINAL FOUNTAIN OF ALL LEGITIMATE AUTHORITY."

* Orange County.

† No. 22, by A. H.

In conformity to the wishes of his friends at Philadelphia, he wrote to Governor Jay, on the seventh of May, the day he received their communication:

"You have been informed of the loss of our election in this city. It is also known, that we have been unfortunate throughout Long Island and in Westchester. According to the returns hitherto, it is too probable that we lose our Senators for this district. The moral certainty, therefore, is, that there will be an anti-Federal majority in the ensuing legislature, and the very high probability is, that this will bring *Jefferson* into the chief magistracy, unless it be prevented by the measure which I shall now submit to your consideration, namely, the immediate calling together of the existing legislature.

"I am aware that there are weighty objections to the measure, but the reasons for it appear to me to outweigh the objections; and in times like these in which we live, it will not do to be over-scrupulous. *It is easy to sacrifice the substantial interests of society by a strict adherence to ordinary rules.* In observing this, I shall not be supposed to mean, that any thing ought to be done which integrity will forbid, but merely that the scruples of delicacy and propriety, as relative to a common course of things, ought to yield to the extraordinary nature of the crisis. They ought not to hinder the taking of a *legal* and *constitutional* step to prevent an atheist in religion, and a fanatic in politics, from getting possession of the helm of state.

"You, sir, know, in a great degree, the anti-Federal party; but I fear you do not know them as well as I do. It is a composition, indeed, of very incongruous materials; but all tending to mischief—some of them to the OVERTHROW of the GOVERNMENT, by stripping it of its due energies; others of them to a REVOLUTION, after the manner of BONAPARTE. I speak from indubitable facts, not from conjectures and inferences. In proportion as the true character of the party is understood, is the force of the considerations which urge to every effort to disappoint it; and it seems to me that there is a very solemn obligation to employ the means in our power.

"The calling of the legislature will have for its object—the *choosing of electors by the people in districts*; this (as Pennsylvania will do nothing) will ensure a majority of votes in the United States for a Federal candidate. The measure will not fail to be approved by all the Federal party; while it will, no doubt, be condemned by the opposite.

As to its intrinsic nature, it is justified by unequivocal reasons of PUBLIC SAFETY. The reasonable part of the world will, I believe, approve it. They will see it, as a proceeding out of the common course; but warranted by the particular nature of the crisis, and the great cause of social order.

"If done, *the motive ought to be frankly avowed.* In your communication to the legislature, they ought to be told, that temporary circumstances had rendered it probable, that, without their interposition, the Executive authority of the general government would be transferred to hands hostile to the system, heretofore pursued with so much success; and dangerous to the peace, happiness and order of the country; that, under this impression, from facts convincing to your own mind, you had thought it your duty to give the existing legislature an opportunity of deliberating, whether it would not be proper to interpose, and endeavor to prevent so great an evil by referring the choice of electors to the people distributed into districts.

"In weighing this suggestion, you will doubtless bear in mind, that popular governments must certainly be overturned; and, while they endure, prove engines of mischief, if one party will call to its aid all the resources which vice can give, and if the other (however pressing the emergency) confines itself within all the ordinary forms of delicacy and decorum. The legislature can be brought together in three weeks, so that there will be full time for the object; but none ought to be lost. Think well, my dear sir, of this proposition; appreciate the extreme danger of the crisis; and I am unusually mistaken in my view of the matter, if you do not see it right and expedient to adopt the measure."

This letter, as Hamilton had feared, did not produce the intended effect. The issue of the election showed, had this measure been adopted,—that it would have been successful. The immediate and remote consequences of that election are proving and will more fully prove, whether Hamilton's opinion was correct, that it was a measure "justified by unequivocal reasons of public safety," or whether the refusal of Jay was not a "sacrifice of the substantial interests of society by a strict adherence to ordinary rules."

Having made this effort, Hamilton again addressed his correspondent in Congress, renewing his advice to adhere to the policy, the departure from which had elevated Jefferson to the second office in the government:

"Were I to determine," he wrote, "from my own observation, I should say, most of the most influential men of the Federal party consider Mr. Adams, as a very unfit and incapable character. For my individual part, my mind is made up. I will never more be responsible for him by my direct support, even though the consequence should be the election of *Jefferson*. If we must have an enemy at the head of the government, let it be one whom we can oppose, and for whom we are not responsible; who will not involve the party in the disgrace of his foolish and bad measures. Under *Adams* as under Jefferson, the government will sink.

"'Tis a notable expedient for keeping the Federal party together, to have at the head of it a man, who hates and is despised by those men of it, who, in times past, have been its most efficient supporters. If the cause is to be sacrificed to a weak and perverse man, I withdraw from the party, and act upon my own ground; never, certainly, against my principles, but in pursuance of them in my own way. I am mistaken, if others will not do the same. The only way to prevent a fatal schism is to support General Pinckney in good earnest. If I can be perfectly satisfied, that Adams and Pinckney will be upheld in the East with entire good faith; on the ground of conformity, I will, wherever my influence may extend, pursue the same plan. If not, I will pursue Mr. Pinckney, as my single object. Adieu."*

Immediately after Hamilton had announced this determination, information was given to him from Philadelphia of an occurrence which excited general surprise. Intelligence of the fate of the election in the city of New York, reached the seat of government, on the third of May. Adams now first became fully aware of the perils of his situation, and awoke from the illusion into which he had permitted himself to be beguiled, that the success

* Hamilton's Works, vi. 441.

of the mission to France would disarm his adversaries and secure his re-election.

The same fatal policy, he had before adopted, was now again resorted to. Well knowing that the vote of New York, if Federal, would be swayed by Hamilton, he did not dare to offend it by an open rupture with those members of his Cabinet who had been appointed by Washington. This motive no longer existing, he resolved to dismiss the members of it most obnoxious to the opposition, with circumstances which indicated that they were sacrificed as a peace-offering.* It was a compliance with the terms held out to him by the Committee of Democratic members, who called upon him, previous to his instituting the mission of Murray; and only deferred, to wait the course of events. The loss of the election in New York was ascribed by him to Hamilton; and the resolution of the Federal members equally to support Adams and Pinckney for a re-election, known to have been in accordance with his advice, was regarded by the President as an act of disloyalty.

The dismissal of a part of his Cabinet was announced as a probable event in a circle of the opposition, before any friend of the Government had a suspicion of it.† Neither of the dismissed ministers had given any new or recent pretext for this dismission.

Hamilton observed:

"A primary cause of the state of things which led to this event is to be traced to the ungovernable temper of Mr. Adams. It is a fact that he is often liable to paroxysms of anger which deprive him

* May 12, 1800. Sedgewick to Hamilton. "Every tormenting passion rankles in the bosom of that weak and frantic old man; and I have good reason for believing, that P. and McH. have been sacrificed as peace-offerings. Would to Heaven you was here, but it is too late."

† Administration of Washington and Adams, ii. 352, 353.

of self command, and produce very outrageous behaviour to those who approach him. Most, if not all, his ministers, and several distinguished members of congress have been humiliated by the effect of these gusts of passion. This violence and the little consideration for them which was implied in declining to consult them, had occasioned great dryness between the President and his ministers, except I believe the Secretary of the Navy. The neglect was of course most poignant to Mr. Pickering because it had repeatedly operated in matters pertaining to his office. Nor was it in the disposition of this respectable man, justly tenacious of his own dignity and independence, to practice condescensions towards an imperious chief. Hence the breach constantly grew wider and wider, till a separation took place.

"The manner of the dismission was abrupt and uncourteous; ill suited to a man, who in different stations, had merited so much from his country.

"Admitting that when the President and his minister had gotten into a situation thus unpleasant, a separation was unavoidable; still, as there was no surmise of misconduct, the case required a frank politeness, not an uncouth austerity."

The dismission of the Secretary at War took place, two days after the loss of the federal ticket in New York was known at Philadelphia.

"It was declared," Hamilton relates, "in the sequel of a long conversation between the President and him" (Mc Henry) "of a nature to excite alternately pain and laughter; pain for the weak and excessive indiscretions of a Chief magistrate of the United States; laughter at the ludicrous topics which constituted charges against this officer. A prominent charge was, that in a Report to the House of Representatives he had *eulogized General Washington* and had attempted to eulogize General *Hamilton*, which was adduced as one proof of a combination, in which the Secretary was engaged, to depreciate and injure him, the President. Wonderful! passing wonderful! that an eulogy of the dead patriot and hero of the admired and beloved Washington, consecrated in the affections and reverence of his country, should, in any shape, be irksome to the ears of his successor!

"Singular, also, that an encomium on the officer, first in rank in the armies of the United States, appointed and continued by Mr. Adams, should in his eyes have been a crime in the Head of the War Depart-

ment, and that it should be necessary, in order to avert his displeasure, to obliterate a compliment to that officer from an official report.

"Another principal topic of accusation was, that the Secretary had, with the other ministers, signed the joint letter, which had been addressed to the President, respecting a suspension of the mission to France. It was ostentatiously asked, how he or they should pretend to know any thing of *diplomatic affairs;* and it was plainly intimated, that it was presumption in them to have intermeddled in such affairs.

"A variety of things equally frivolous and outré passed. By way of episode, it fell to my lot to be distinguished by a torrent of gross personal abuse; and I was accused of having contributed to the loss of the election in New York,* out of ill will to Mr. Adams, a notable expedient truly for giving vent to my ill will. Who is so blind as not to see, that, if actuated by such a motive, I should have preferred by the success of the election, to have secured the choice of electors for the State of New York, who would have been likely to co-operate in the views by which I was governed? To those who have not had opportunities of closely inspecting the weaknesses of Mr. Adams's character, the details of this extraordinary interview would appear incredible; but to those who have had these opportunities, they would not even furnish an occasion of surprise. But they would be to all who knew their truth irrefragable proofs of his unfitness for the station of Chief magistrate.

"Ill treatment of Mr. McHenry cannot fail to awaken the sympathy of every person well acquainted with him. Sensible, judicious, well informed, of an integrity never questioned, of a temper, which, though firm, in the support of principles, has too much moderation and amenity to offend by the manner of doing it,—I dare pronounce, that he never gave Mr. Adams cause to treat him, as he did, with unkindness. If Mr. Adams thought that the execution of his office indicated a want of the peculiar qualifications required for it, he might have said so with gentleness, and he would have only exercised a prerogative intrusted to him by the Constitution, to which no blame could have attached; but it was unjustifiable to aggravate the deprivation of office by humiliating censures and bitter reproaches." †

* "New York," said Adams, "is one of the Devil's incomprehensibilities."

† James McHenry to John McHenry, May 20, 1800. "He requested to

Certain advices of the loss of the electoral vote of the State of New York reached Philadelphia on the ninth of May; and on the morning of the tenth, Colonel Pickering received a summons to *resign;* and a desire was expressed that he would, himself, name the day. He did not incline to accept this offer. The President, after the interval of Sunday, demanded his answer. It was sent with an intimation, that important matters would render his services useful in the office for a short defined time. He stated the effort he had made by a painful self-denial "to secure the means of subsisting his family a few months longer, and perhaps of transporting them to the woods." "I am happy," he added, "that I now have this resource; and that those most dear to me, have fortitude enough to look at the scene without dismay, and even without regret," but "that he did not feel it to be his duty to resign."* Within an hour he received a peremp-

see me on the 5th instant. The business appeared to relate to the appointment of a Purveyor, and to disembarrass himself from any engagement on that head. This settled, he took up other subjects, became indecorous, and at times outrageous. General Washington had saddled him with three Secretaries, Wolcott, Pickering, and myself. I had not appointed a gentleman in North Carolina, the only elector who had given him a vote in that State, a captain in the army, and afterwards had him appointed a lieutenant, which he refused. I had biassed General Washington to place Hamilton on his list of Major-Generals, before Knox. I HAD EULOGIZED GENERAL WASHINGTON, IN MY REPORT TO CONGRESS, and had attempted in the same report, to praise Hamilton. In short, there was no bounds to his jealousy. I had done nothing right. I had advised a suspension of the mission. Everybody blamed me for my official conduct, and I must resign. I resigned the next morning. Mr. Pickering was thrown out a few days after. Mr. Wolcott is retained for a while, only because he (Mr. Adams) is afraid of derangements in the affairs of the Treasury."

* Timothy Pickering wrote May 26, 1800, to a former Senator: "You have long known the President's hatred of me and its causes. You will particularly recollect my opposition to Colonel Smith's" (son-in-law of Adams)

tory discharge. One of the offences imputed to him by Adams was, that he "was so devoted an idolater of Hamilton, that he could not judge impartially of the sentiments and opinions of the President of the United States."

The day after the dismissal of McHenry, John Marshall was nominated to the Senate, as Secretary at War, without having been consulted and having no information that McHenry was to retire. He declined the office. Samuel Dexter was appointed in his stead, and Marshall succeeded Pickering.

In a letter of Jefferson to Adams, he states:

"I well remember a conversation with you *in the morning of the day* on which you nominated to the Senate a substitute for Pickering, in which you expressed a *just* impatience under the 'legacy of secretaries which General Washington had left you,' and whom you seemed therefore to consider as under public protection."

"appointment to the office of Brigadier and Adjutant-General in 1798, for which I then said, the President's resentment might rise high enough to remove me; and last winter, for that and other instances of want of obsequiousness to his will and pleasure, I told you my removal *would not surprize me*, and I remember your answer, that *he dare not do it*. But, as you observe, despairing of a re-election, he resolved not to let slip the opportunity of *revenge*. He has manifested his wrath, knowing he had but a short time. But, as much as you know him to be influenced by the vilest passions, you will not have supposed, that his late measures have been taken in concert with Mr. Jefferson! Yet a combination of circumstances, independently of the direct declaration of some of Jefferson's party, *that there was a coalition*, place it, in my mind, *beyond a doubt*. And for what? Unquestionably to secure the office of Vice-President under Jefferson, or at any rate to exclude General Pinckney, whom he also honors with his hatred. You well know Mr. Adams's anxiety to be in office; and that he, in your last conversation with him, complained, that after forty years' public service, he must return to Quincy, and follow the plough. Last Saturday, Mr. Stoddart, in the course of an accidental and long conversation with Mr. Hodgson, avowed his opinion, that my interference in opposing Colonel Smith's appointment was the first and principal cause of my removal; and this opinion Mr. Stoddart had heard the President express soon after his entrance into office."

Jefferson seems never to have wearied of his dupery. Adams had been led to believe, "that Jefferson never had the ambition, or desire to aspire to any higher distinction than to be his first lieutenant." *

* Gibbs, ii. 366.

CHAPTER CLIV.

A GENERAL meeting of the Society of the Cincinnati was held at this time at the seat of government. After paying an eloquent and affecting tribute to Washington their late PRESIDENT-GENERAL,—Hamilton was elected to that station, and Charles Cotesworth Pinckney chosen Vice-President.

General Hamilton now proceeded to execute the orders which had been issued for disbanding the army. He first visited the corps stationed at Scotch Plains in New Jersey. While there he received a letter from Adams, highly indicative of his character and cast of mind. Colonel Smith, the son-in-law of the President, on being informed of the dissolution of the temporary army, had requested to be appointed to the command of a regiment, then vacant, which formed part of the permanent establishment, and to bring with him a Major and full battalion of men from his brigade to complete the regiment.

The position taken by Adams in determining the relative rank of Hamilton will be recollected, his personal hostility having led him to violate an express understanding with Washington, and even to declare that Knox had "a legal right" to precedence. Yet, wholly overlooking these facts, Adams wrote to Hamilton, asking, that he would be "so kind, without favor or affection, to give his

candid opinion as to the fitness of this appointment. Whether the request can be granted in whole or in part, without injustice to other officers, and whether it is consistent with the military ideas."

Hamilton replied from the Camp, Scotch Plains.*

"I had the honor of receiving an hour since your letter of the twenty second instant, with the copy of one to you from Colonel Smith. I am happy to think that the question presented is on mere military principles a very simple one. The rule of promotion by succession, does not in any service, as far as my knowledge goes, apply to *a new corps*, in *its first organization*. Officers for such a corps, it is understood, may be found whoresoever it is thought fit, without regard to those of the antecedent establishment. This rule has been repeatedly, and recently acted upon in this Country, and is necessary and right.

"The regularity of complying with the wish of Colonel Smith depends then on the fact whether the second regiment of artillerists has ever been *organized*. I believe that it never has been; never yet having had a Commandant. I have supposed that this state of the thing was the reason why the eldest major of the two regiments was, not long before this appointed as a matter of right. If I am correct in the fact, of which the Secretary of War can give precise information, the conclusion is, that the appointment of Colonel Smith will violate no military rule, nor the right of any other officer. It may and probably will contravene expectations entertained on reasonable grounds; but this is a different thing from the infraction of *a right*. But, except on the principle, that the regiment was never organized, Colonel Smith, an officer of infantry, could not be placed in the command of it, in exclusion of the Majors of the corps, without departing from military ideas. The major and other officers of the additional battalion may doubtless, with strict regularity, be appointed from the officers on this ground, if it shall be thought expedient.

"What has been said is, I imagine, a full answer to the inquiry you have been pleased to make. And perhaps I ought to say no more. Yet if I did stop here, I should not be satisfied that I had fulfilled all that candor and delicacy require of me. I will therefore take the lib-

* May 24, 1800.

erty to add a few words. There are collateral considerations affecting the expediency of the measure which I am sure will not escape your reflection; and if, after weighing them duly, you shall be of opinion that they ought not to prevail as obstacles, you will without doubt anticipate criticism.

"I trust this remark will not be misunderstood. The opinion I have of Colonel Smith's military pretensions, my personal regard for him and my sensibility to his situation conspire to beget in me sentiments very different from a disposition to throw the least impediment in the way of his success."

The President answered.*

"The *itinerant life* I have led has prevented me from acknowledging the receipt of your favor of May twenty-fourth till this time. Your sentiments are very satisfactory to me, and will be duly attended to.

"I anticipate criticism in every thing which relates to Colonel Smith. But criticism, now criticized so long, I regard no more than "Great George, a birthday song." Colonel Smith served through the war with high applause of his superiors; he has served abroad in the diplomatic corps; at home as Marshal and supervisor, and now as Commandant of a brigade. These are services of his own, not mine. His claims are his own. I see no reason or justice in excluding him from all service, while his comrades are all embassadors or generals, merely because he married my daughter. I am sir, with much regard."

Pinckney had been an ambassador. Hamilton was a General.

Smith was soon after appointed by Adams to a place in the customs at New York. This favoritism was in marked contrast with the delicacy of Washington. Adams felt it to be so. In a subsequent letter to Madison, advising the appointment of a connexion of the President to office, Adams observes; "I hope you excuse me, sir, if

* June 20, 1800.

I take the liberty to express my opinion of the justice and prudence of this principle. The *hypersuperlative publie virtue* of General Washington introduced it, but it has done much more harm than good, and in my judgment the sooner it is discountenanced, the better." *

During this period, Hamilton framed a bill relative to the articles of war; and the system of Tactics was completed. That of the Cavalry was digested by General Pinckney. The part relating to the Artillery and the Ordnance was prepared by officers belonging to the corps, and was supervised by Hamilton. The Tactics of the Infantry were the work of Hamilton alone.

As the march is the basis of the instruction of a soldier, he, in the first place considered the pace. The great diversity of the step in different services was a reason with him against adopting any foreign standard, and a motive to investigate the principles which ought to govern the step. He thought, if possible, that a *standard in nature* should be found. With this view, he ordered experiments to be made by individuals of different sizes, and by bodies of different numbers on different sorts of ground.

As the length of the step naturally increases with its velocity, it was a question with him whether the length of the step ought not to be proportioned to the speed, being less in the slower and greater in the quick step, instead of the uniformly cadenced step which prevailed. He also doubted the utility of the variety of steps in use, as fundamental rules. Though he admitted it as a dictate of good sense, to respect the institutions of nations advanced in the art of war; yet, from the influence of imitation and routine, he suspected, that, in this particular,

* John Adams to Madison, March 23, 1818.

"principles had not been sufficiently consulted, and that there was room for improvement." "This," he said, "is to be carefully examined, with a spirit no less removed from the love of innovation than from a spirit of blind deference to authority and precedent." These experiments were made, but the result is not ascertained.

A similar spirit of free investigation is seen in his other Tactical enquiries. The prevailing notions in this country, at the beginning of the Revolution, were derived from the English service, and were ingrafted in the plan drawn up by Hamilton in seventy-eight, which, as has been stated, "became the basis of the military system of the Revolution." But this plan chiefly embraced provisions as to the general organization and economy of an Army in its different branches and functions, and which were subsequently more carefully digested by him, particularly at the close of the war.

The elementary principles of Military science were, for a long time, very crudely understood here; and but little observed. It was not, until the appointment of Steuben as Inspector General, that a full system of elementary Tactics was introduced. His system which was that of Prussia, a little modified, prevailed until Hamilton's was substituted. * The imperfect state in which it exists among his papers does not permit a full exposition of it. While chiefly taken from the practice of European nations, whose fondness for imitation rendered the advances in the science of war, very slow and imperfect, it has many modifications which appear to have been original at that time, and may serve as the germs of valuable innovations in a science, since much advanced. From the

* This system did not embrace what are called "Grand tactics" meaning those of battle, but merely "Elementary Tactics" or those of "Instruction."

want of energy in others and of sufficient time, his plans were only partially carried into effect, and, far from viewing the result, with the approbation since expressed by another, he remarked, that "the army was still a very disjointed mass."

Anxious to retire from a service which involved a very serious sacrifice of his professional resources, Hamilton, on the thirteenth of May, asked leave to resign on the first of June. This was not granted, it being thought expedient that the larger bodies of the troops at the different stations should be disbanded by him, in person. Having issued in New York a brief farewell address to the troops in New Jersey, Hamilton proceeded with his staff to Oxford, and thence to Exeter, where certain corps were stationed, and where he was received with great enthusiasm.

On his return from this military tour, he passed through Boston, which he designated as the "head quarters of correct principles." There, a marked tribute of respect was shewn to him by a festival, at which, the Governor, the principal officers of the State, its judiciary, together with those friends who had witnessed his arduous services in the organization of the government, were present. He returned thence to New York on the thirtieth of June, and immediately addressed a letter to the War department, announcing, that from the terms of the act for disbanding the additional army, he considered his military agency as having ceased. The second of July his official career terminated.

On his arrival at New York he found letters which had been addressed to him from different parts of the Union. Those from the Southern and Middle states evinced a strong distrust of the President, and a marked preference of Pinckney. They contained statements,

that a coalition was contemplated between Jefferson and Adams in order to ensure the exclusion of Pinckney; and that intimations had been given, if the former should be elected, that Adams would serve under him as Vice President, but would not accept that situation under Pinckney. The intelligence from the East was, though the strong-minded men were satisfied of the expediency of supporting Pinckney, as giving the best chance against Jefferson, and preferred him to Adams; yet that the body of the people were attached to Adams, as an EASTERN man; and that the leaders of the second class were not sufficiently convinced of its necessity to induce them faithfully to co-operate in the support of Pinckney.

From the information before him, Hamilton replied to Charles Carroll.

"My views are given without reserve because the times forbid temporizing, and I hold no opinions which I have any motive to dissemble. That Adams ought not to be the object of the Federal wish is with me reduced to demonstration. His administration has already very materially disgraced and sunk the Government. There are defects in his character which must inevitably continue to do this more and more; and if he is supported by the Federal party, this party must in the issue fall with him. Every other calculation will, in my judgment, prove illusory. Doctor *Franklin*, a sagacious observer of human nature, drew this portrait of Mr. Adams: 'He is always honest, *sometimes* great, but *often mad*.' I subscribe to the justness of this picture, adding as to the first trait of it, this qualification—"as far as a man exceedingly *vain* and *jealous*, and *ignobly* attached to *place* can be." *

The Democratic leaders in the mean time pursued their objects with great address. Soon after the change in the Cabinet, their principal gazette broke forth in a violent condemnation of the President, the ground of

* July 1, 1800. Hamilton's Works, vi. 445.

which was the dismissal of Pickering—thus to fan the dissensions of the Federalists. Next—to encourage their own followers, a virulent publication was made, charging Pickering with peculation. A statement from the Treasury immediately appeared, utterly disproving this calumny.

Never was any man more eager for popularity, and never any man more mistaken in his mode of seeking it, than the conduct of the President at this time shows him to have been. It has been seen, that the fiscal laws had been twice resisted in Pennsylvania, by combinations so extensive and so violent as to have required the exertion of military force, at an expense of nearly a million and a half of dollars. The leaders in the first Insurrection had either taken the proffered amnesty or escaped conviction. "Two poor wretches," Hamilton observed, "only were sentenced to die, one little short of an idiot, the other a miserable follower in the hindmost train of rebellion,—both beings so insignificant, that, after the lenity shown to the chiefs, justice would have worn the mien of ferocity if she had raised her arm against them." They were pardoned. In the last Insurrection some of the most important offenders were capitally convicted.—One, by the verdicts of two successive juries. The general opinion of the friends of the government demanded an example as indispensable to its security. In no other State was "the disaffection to the National government more general, more deeply rooted, or more envenomed." The impunity shown had induced a belief that the authorities did not dare to inflict capital punishment. So convinced was Adams of the necessity of condign punishment, that he stated "that the accused must found their hopes in their innocence, or in the lenity of the juries, since from him they had nothing to expect," and "de-

clared with no small ostentation, that the mistaken clemency of Washington had been the cause of the second Insurrection; and that he would take care there should not be a third, by giving the laws their full course against the convicted offenders." Yet he departed soon after from this determination. The counsel of the prisoner alleged, that treason does not consist of resistance by force to a public law, "unless it be an act relative to the militia or other military force;" and, "against the unanimous advice of his ministers with that of the Attorney-General, he came to the resolution of pardoning all those who had received sentence of death." Thus at variance with himself,* as well as with sound policy, the only solution left is, that this temporizing procedure was dictated by a system of concession to his political enemies; "a system the most fatal to himself, and to the cause of public order, of any that he could possibly devise."

The belief, that he was looking to a coalition with Jefferson received countenance from the press, and was confirmed by many circumstances. Fearful of the influence of that portion of the Federalists, who were in possession of the power of Massachusetts, he appealed to the remains of the old party of Samuel Adams and Hancock, of which Gerry was a prominent member, relying on the animosities which, a long exclusion from public confidence, the consequence of its opposition to the Constitution and predilection for France, had engendered. The toast "Hancock and Samuel Adams" given by him spread far to the borders of New England. In the former the true friends of Washington had seen a lukewarm—uncertain—weak competitor—in the latter, an open leading antagonist.—But these appeals flattered, as they were designed, the hopes of the minority and were declared to have revived the zeal of the Revolution, which, "since the

British treaty had been made to yield to a more convenient doctrine."

It required little to excite the buoyant vanity of the President, moved as he was by the recent honors paid to Hamilton, and by the manifest alienation of the most distinguished statesmen of the country. It was now seen, that a lapse of twelve years of public service, had produced no salutary influences upon his mind. The same disregard of decorum, the same absorbing love of self, the same forgetfulness of every consideration that ought to govern a public man, which were evinced in his flight from Congress in seventy-six, in his intercourse with Vergennes, and in his flight from Paris in seventeen hundred eighty, and on his retreat from the Court of St. James in eighty-seven, were now exhibited. The disappointed ambassador and the disappointed President were the same ungoverned and unsteady being. The torrent of abuse which he had then poured forth towards the public men of France and England, was now directed against his recent supporters and associates. That portion of the Federalists which had enjoyed the full, unreserved confidence of Washington was openly calumniated by him, as a "British faction," and Hamilton stigmatized as its leader.

These imputations were disseminated industriously by his immediate partisans, and were re-echoed by the Democrats, as a conclusive admission from the highest authority of the truth of their oft-repeated calumnies. Did Adams believe the charges he was preferring? His own pen gives the contradiction: "I do not know a member concerned in the administration of the affairs of the United States, who would not *indignantly spurn at the idea of British influence;* and, as to bribes, they would disdain to attempt a vindication of the charge." This letter is addressed to Colonel Pickering, whose dire offence

he regarded, that of being counselled in his policy, by Hamilton.* A short time only elapsed, when this wayward man held this language as to England—"A power which invariably acknowledged us to be a nation for fifteen years; a power that has never had the insolence to reject our ambassadors; a power that at present convoys your trade, and their own at the same time."

Hamilton felt that silence under such a charge did not become him; and that it would be proper to require of the President an explanation. He stated to Wolcott:

"I have serious thoughts of writing to the President to tell him, that I have heard of his having repeatedly mentioned the existence of a British faction in this country, and alluded to me as one of that faction; requesting that he will inform me of the truth of this information; and, if true, what have been the grounds of the suggestion. His friends are industrious in propagating the idea to defeat the efforts to unite for Pinckney. The inquiry, I propose, may furnish an antidote, and vindicate character. What think you of this idea. For my part I can set malice at defiance." †

Referring to this purpose, Wolcott, still Secretary of the Treasury, wrote to him:

"Honest men have been calumniated and discredited and no apology or explanation has been offered to the public. It will be extraordinary, if all these strange proceedings are permitted to be slurred over, by attributing them to *state necessity*, the firmness of the President, his independence of both parties, &c., &c.

"Public discussion has become *inevitable*. I approve entirely of your writing to the President for an explanation of what he means by the frequent allusions to a British party or faction. Indeed every thing which decorum will permit to render the present state of our affairs intelligible, is in my opinion proper.

"Nothing is more disgusting to me than the praise bestowed upon the President, for his *wise* and *sincere pursuit of peace*, according to

* Adams's Works, ix. 8. † Aug. 1, 1800.

the example of *General Washington.* A great number of public men have heard the President declare, that he did not believe that the French government was *sincere* in making what are called the overtures upon which the last mission was founded. Nay more, the President has declared, that a treaty was neither to be *expected* nor *desired.* While Mr. Ellsworth and Mr. Davie were at Trenton last autumn, and after the instructions had received the President's sanction, he said, that the expulsion of the envoys from France with circumstances of personal indignity, would be favorable to the interests of the United States. I shall ever believe, that the last mission to France was by the President considered as a *game of diplomacy;* and that it was his intention to gain popularity at home, by appearing to be desirous of peace, while he exhibited his talents as a great statesmen by outwitting the French in negotiation.*

"The peace and prosperity of this Country," McHenry wrote, "have been brought into jeopardy by the present Chief to answer electioneering purposes. He would be every thing and do every thing himself. He wants the prudence and discretion indispensable to enable him to conduct with propriety and safety the intercourse permitted between a President and foreign ministers. He is incapable of adhering to any system, consequently must be forever bringing disgrace upon his agents and administration. His foibles, passions, and prejudices are of a stamp which must expose him incessantly and equally to the intrigues of foreigners, and the unprincipled and wickedly ambitious men of either party. The high and dearest interests of the United States cannot possibly be safe under his direction."

Ames also wrote of him:

"This man is vindictive enough at any risk or even ruin, to disappoint those, who will, he thinks, alone disappoint him. His vanity is also soothed to exhibit his fate as proceeding from the art or force of the Anties, rather than the disgust of the Federalists. In that event, want of votes would seem more tolerable than the detected want of

* Adams wrote to Pickering, August 6, 1799, in relation to Talleyrand's letter to Vans Murray. "That the design is insidious, and hostile at heart I will not say." * * * "Although I *have little confidence in the issue of this business.* I wish to delay nothing, to omit nothing." Adams's Works, ix. 11.

character. * * * This man fancied that parties could not do without him. You must remember, though you say you did not know him till this election, that I told you at great length and most faithfully in your office, exactly what I *knew* him to be, before he was in office. This extravagant opinion of himself, this ignorance of parties and characters, this pride that wanted Jefferson to be his second, and that was not hurt in being in return, his dupe, this caprice that was often shifting style, and that forbid him ever to have a sober, reflected system—all this was known to Cabot, and to me, in kind, though we both confess, in some of the points, less in degree than the event has proved." *

On the first of August Hamilton made this decorous call upon Adams by the following letter:

"New York, August 1, 1800.—Sir: It has been repeatedly mentioned to me, that you have on different occasions, asserted the existence of a British faction in this Country; embracing a number of leading or influential characters of the Federal party, (as usually denominated,) and that you have sometimes named me, at others plainly alluded to me, as one of this description of persons. And I have likewise been assured, that of late, some of your warm adherents, for electioneering purposes, have employed a corresponding language.

"I must, Sir, take it for granted, that you cannot have made such assertions or insinuations, without being willing to avow them; and to assign the reasons to a party, who may conceive himself injured by them. I therefore trust, that you will not deem it improper, that I apply directly to yourself, to ascertain from you, in reference to your own declarations, whether the information I have received, has been correct or not; and, if correct, what are the grounds upon which you have founded the suggestion. With respect I have the honor to be your obedient servant."

The correspondence of Hamilton's friends of this period is important, as showing the sincerity of their apprehensions of the consequences of the Democratic success, and the embarrassments into which the Federalists had been precipitated by Adams.

* Ames to Wolcott. Gibbs, ii. 368.

Charles Carroll, whose virtues are embalmed in the memory of his country, wrote:

"I much fear that this country is doomed to great convulsions, changes, and calamities. The turbulent and disorganizing spirit of Jacobinism, under the worn-out disguise of equal liberty and rights, and division of property held out as a lure to the indolent, vicious, and needy, but not really intended to be executed, will introduce anarchy, which will terminate here, as in France, in a military despotism."

Hamilton was enabled by letters from all parts of the Union to form a probable estimate of the character of the electoral votes; and, much earlier than any other individual appears to have done, came to a correct conclusion as to the result of the election.

"There seems," he wrote to Bayard of Delaware, "to be too much probability, that Jefferson or Burr must be President. The latter is intriguing with all his might in New Jersey, Rhode Island and Vermont; and there is a possibility of some success to his intrigues. He counts positively on the universal support of the Anti-federalists; and that by some adventitious aid from other quarters, he will overtop his friend Jefferson. Admitting the first point, the conclusion may be realized; and, if it is, Burr will certainly attempt to reform the government, *a la Buonaparte*. He is as unprincipled and dangerous a man, as any country can boast; as true a Cataline as ever met in midnight conclave."

"What is the charm," Bayard replied, "which attaches the East so much to Adams? It can be nothing personal. The escape we have had under his administration is miraculous. He is liable to gusts of passion, little short of frenzy, which drive him beyond the control of any rational reflection. I speak of what I have seen. At such moments, the interests of those who support him or the interest of the nation would be outweighed by a single impulse of rage. We may thank the guardian genius of this country which has watched over its destinies for the last four years. * * He has palsied the sinews of the party, and if I relied on forebodings as ominous, I should believe, that before another Presidential cycle has completed itself, he would give it its death wound."

Looking to this as a probable result, Hamilton was strengthened in his purpose to prepare an exposition of the conduct of the President, and thus to secure an undivided vote to Pinckney, as the only mean of preventing it. He contemplated doing this in the form of a letter to a friend with his signature. "This seems to me," he said, "the most authentic way of conveying the information, and best suited to the plain dealing of my character."

Ames, though previously averse to an exposure of the President, is seen to have inclined to it.

"I think," he wrote, "you will see a design on one side to establish a system of terror, to appeal to the people against the high-flying Federalists, to use local and *personal influences* to the utmost, and even to resort to pity for forgotten services, sacrifices great and unrewarded, insults unmerited and base. * * * As sober good men cannot see how the cause can be separated from the man; and as the attacks of these writers indicate a violent war, will not prudence, will not self-defence, call for a *change of conduct* on our part? Will not an *exposure* of such things as would surprise and mortify, become *necessary* to prevent the public from being deceived, and in consequence entirely separated from its best friends."

"The exposition of the reasons," Cabot wrote to Hamilton, "which influence many men of unquestionable patriotism and loyalty, to withhold from Mr. Adams the confidence which he once enjoyed, may be useful, by satisfying the intelligent and candid part of the public that those men act as they ever have done on genuine national principles. The reasons are strong, and only require to be placed in a clear light, but this must be done with infinite care and circumspection, that neither anger nor jealousy may be excited; it must be done in a manner that shall clear up the doubts which now exist of the sincerity and consistency of the party who promoted the union of votes for Adams and Pinckney." *

Two days later, Cabot again wrote, advising Hamilton

"to ground the publication chiefly on the necessity of it to exculpate

* Aug. 21, 1800.

those whom it vindicates from the abominable charges, insinuations, and unmerited denunciations of Adams, and of some of his personal friends. Indeed, I see no impropriety, in regretting that a compromise has been made, which must be observed at every hazard, it being too manifest, that Adams has relinquished the system he was chosen by the Federalists to support; and that he has become hostile, and will naturally become more and more hostile to the firm advocates of that system and all who adhere to it. I think, however, that it must be shown, that the opposition to Adams is founded on broad public principle. For myself, I often declare, that the mission to France, though impolitic, unjustifiable, dangerous, and inconsistent, the expulsion of *able, upright, and faithful* officers,* though a ruinous precedent; the pardon of Fries, though a sacrifice of the safety as well as dignity of the State; that many other transactions of inferior magnitude, though shamefully wrong; yet that all these would not of themselves induce me to oppose the President's re-election, if I did not view them as evidence, explained and confirmed by other evidence, that he has abandoned the system he was chosen to maintain; and that he is likely to introduce its opposite, with all its pernicious consequences, as fast as he can, and as far as his influence will go." * * * "He will continue to sacrifice the independent Federalists as long as he finds victims who will be acceptable to those whose favor he courts. He will also hazard a war with Great Britain, which he evidently thinks would be no injury to him."

Another friend, who considered the exposition necessary, wrote to Hamilton:

"At New Haven, he told the Edwardses that a British faction existed here, which it was necessary to break up. To another person of great respectability, he said, that this Country could not get along without an hereditary chief. The Jacobins repeat both stories, and the people believe that the President is crazy. This is the honest truth, and what more can be said on the subject." "I wish to see," said another, "a full, but calm discussion of all the grounds of discontent with Mr. Adams, in a pamphlet or newspaper."

* "Since Mr. Pickering was expelled, the President has said of him to a gentleman, 'an honest man as ever lived.'"

No reply was given by the President to the letter of Hamilton of the first of August. He waited two months, when he again wrote to him on the first of October.

"The time which has elapsed since my letter of the first of August was delivered to you, precludes the further expectation of an answer.

"From this silence, I will draw no inference, nor will I presume to judge of the fitness of silence on such an occasion on the part of the Chief Magistrate of a Republic, towards a citizen, who has without a stain, discharged so many important public trusts.

"But thus much I will affirm, that by whomsoever a charge of the kind mentioned in my former letter, may, at any time, have been made or insinuated against me, it is a base, wicked, and cruel calumny, destitute even of a plausible pretext, to excuse the folly or mask the depravity which must have dictated it. With due respect, I have the honor to be."

This note remained unanswered. Hamilton had in the mean time decided to carry into effect his purpose of writing an examination of Adams's political conduct. He submitted the draft of it to Wolcott. "What say you to the measure? Anonymous publications can now effect nothing. Some of the most delicate of the facts stated, I hold from the three ministers, yourself particularly; and I do not think myself at liberty to take the step without your consent. I never mean to bring proof, but to stand upon the credit of my own veracity."

The inducements to it, he stated to be, "to promote a co-operation between the friends of Adams and Pinckney in their *equal* support, though with the hope, the latter would be elected," — "to defend his own character, and to vindicate that of his friends." He said that it would be his "endeavor to regulate the communication of it in such a manner as would not be likely to *deprive Adams of a single vote*," it being "much his wish that

its circulation could forever be *confined within narrow limits.*"

"I am sensible," he said, "of the inconveniences of giving publicity to a similar development of the character of the Chief Magistrate of our country; and I lament the necessity of taking a step which will involve that result. Yet to suppress truths, the disclosure of which is so interesting to the public welfare, as well as to the vindication of myself, did not appear to me, justifiable." "To refrain from a decided opposition to Mr. Adams's re-election, has been reluctantly sanctioned by my judgment, which has been not a little perplexed between the unqualified conviction of his unfitness for the station contemplated, and a sense of the great importance of cultivating harmony among the supporters of the government; on whose firm union hereafter will probably depend the preservation of order, tranquillity, liberty, property, the security of every social and domestic blessing."

Had there been any sufficient cause for desisting from the examination, a disclosure was now made, which did not permit longer silence. On the twenty-eighth of August, a gross breach of faith was committed towards Adams, (such are seen to have been the frequent resorts of the Democratic leaders at critical moments,) in the publication of a private letter, a letter addressed by him when Vice President, to Tench Coxe, in the leading opposition press, the "Aurora," avowing "the *suspicion* that the appointment of Pinckney to the Court of London had been procured or promoted by *British influence;*" and the family of the Pinckneys was charged by Adams with "a long intrigue" against him. The appointment of Pinckney was the act of Washington, and was approved by every member of his cabinet. If Adams's suspicion was well founded, then, it was a charge, that Washington acted under British influence; and, that thus actuated, he had the approval of Jefferson.

Gross, and groundless, and puerile, as this calumny

was,* it was conclusive proof of the dark fact which must ever lower over his memory, that the man whom the Federalists had raised to the highest office in the gift of the American people, had long been their reckless concealed calumniator. When called upon for an explanation, Adams often unmindful of truth, gave a weakly fabricated apology, and acknowledged, that his "suspicion of that kind of influence was wholly *unfounded in reality.*"

Hamilton proceeded to his purpose, as the vindicator of the founders of this government. But to guard against any advantages the opposition might derive from it, he directed his "Letter to John Adams," to be printed *confidentially*, and addressed it to those persons, whose influence was important to the only chance, which remained of success, the election of General Pinckney. †

Burr was apprised ‡ that this examination was in the

* Washington wrote to McHenry 17 Nov. 1799. "The charge of British influence in the appointment of Major Pinckney to be minister at the Court of London, is a perfect enigma. My curiosity leads me to inquire on what ground it is built, and you would oblige me by giving an explanation. Was it the measure or the man that gave rise to this insinuation? The first it cannot be, because an exchange of ministers had long been invited, sought after; and the tardiness of Great Britain, in not meeting the advances of the United States in this respect, was considered and complained of as an indignity. Could it be the man? Could he who had fought against that country, and bled in defence of his own in the conflict, a man of acknowledged abilities and irreproachable character, be suspected of undue influence? If neither, I ask again on what is the accusation founded. The whole is a mystery to me." Washington's Writings, xi. 468.

† It is a sufficient answer to a comment on the proposed circulation of this "Examination" *without its coming to the knowledge of Adams*, that a copy of it was sent by Hamilton to a connection of his, now alive.

‡ That a spy had been placed in Hamilton's office is to be inferred from the early disclosure to Burr of the printing of this paper, and also from the fact

press. By the instrumentality of one of his tools, a copy was surreptitiously obtained. Extracts were immediately taken * and transmitted to several of the leading Democratic gazettes. †

The immediate partisans of Adams were now loud in their denunciations of Hamilton, and even among men who equally censured him, there were found those who joined in the disapproval. "I smile," Ames wrote, "to hear Hamilton and his book condemned by men who go on to find fault with the President, at least, as harshly. They seem to admit the weight of his objections, except such as they make themselves."

The imputation of bad faith against those Federalists, who distrusted Adams at the previous Presidential election, was now vehemently and widely repeated. So far otherwise is the fact, that it was the good faith of those Federalists, and the bad faith of the supporters of Adams,

that the purport of his letter to Jay of the seventh May preceding, advising an extra session of the legislature to district the State of New York for the choice of electors, appeared in the Aurora, *before the letter was sent.*

* "Colonel Burr ascertained the contents of this pamphlet, and that it was in the press. Its immediate publication, he knew must distract the Federal party, and thus promote the Republican cause in those States where the elections had not taken place. *Arrangements were accordingly made for a copy*, as soon as the printing of it was completed; and when obtained, John Swartwout, Robert Swartwout and Matthew L. Davis, by appointment, met Colonel Burr at his own house. The pamphlet was read, and extracts made for the press. Davis was charged with forwarding these extracts," which was done, and they were immediately published. Life of Burr, ii. p. 65, by Matthew L. Davis, *who obtained the pamphlet* from the printing office.

† Alluding to the *murder* of Hamilton by Burr, this comment is made by C. F. Adams. Life of Adams, i. 582. "Yet, with the singular fatality of *retribution*, which more than once attended the acts of Mr. Hamilton, the sequel showed, that, at *the instant of this publication, he* was *striking* the *first spade* into what was ere long *to be to him a duellist's grave.*" The author of this paragraph has thereby ensured to himself a memory which can never be effaced.

which prevented Pinckney being chosen President. The plan of jointly and equally supporting Adams and Pinckney, met with all the opposition from Adams, "and his personal friends, that could be made, and with all the virulence that could give an edge to their passions." To insure his election, Rhode Island withheld one of her two votes from Pinckney—her vote being two for Adams, one for Jay.* On the other hand, South Carolina, would willingly have voted for Jefferson and Pinckney, but the latter "with singular good faith and honor, adhered to the compact, and rejected the offer." * Had such been the vote of South Carolina, and had Rhode Island been true, the electoral vote of Pinckney and Jefferson would have been equal; and the House of Representatives being Federal, would have elected General Pinckney, President. †

* Ames to Gore. Works of Ames, i. 287.

† General Gunn to Hamilton. December 13, 1800. "It may with truth be said, that John Adams has damned our cause, for the *double chance* was lost in South Carolina, owing to General Pinckney refusing to give up Adams." The total vote was, Jefferson, 73; Burr, 73; Adams, 65; Pinckney, 64.

CHAPTER CLV.

GREAT discord existed in Pennsylvania, one branch of its legislature was Federal, the other Democratic.* McKean recently elected Governor, appeared, in this emergency, to have abandoned all his violence. His address, soothingly urged, that they should be "superior to the suggestions of party, disdain a contest about forms, and yield to the precedents of other States." Each house was nevertheless resolute. The contest terminated in a compromise, which gave one Democratic majority in the number of electors.

Adams was now seen to vary his course with each change in the aspect of his fortunes. For a time he endeavored to be calm and discreet, and discovered a desire to propitiate the Federalists, whom he had denounced. At another time, the dangers of party spirit, were deprecated by him. The support of him was stated to turn upon the question, whether

"a man is fit to administer the government who confides more in his own reading and experience than in the advice of younger men;

* "Pennsylvania is reduced to a situation truly to be commiserated. A high spirit in favor of the Government had been excited; and, if it had not afterwards been discouraged, Ross would have been elected Governor. In no State, has the mission to France produced so violent a counteraction as in Pennsylvania." Wolcott to Ames. Gibbs, ii. 403.

or, who, in the simplicity of an honest mind, mistakes a sarcasm for a compliment. If the present President has not the prudence of his predecessor, he has evinced equal patriotism and more confidence in his own opinions, a confidence which events have hitherto justified. The man who shall, in the present equalized state of parties, determine to go all lengths with the one or the other, will hazard a revolution by violence. If the present President and *Vice-President* could be elected by united suffrages, it would probably be the most fortunate event for the United States."

This vain attempt at conciliation was derided by the Democracy, confident of success; and was regarded by the leading Federalists, as the last feeble effort of a man too weak to meet adversity with dignity.

On the day* this overture was published, the Congress assembled at Washington. The Speech recommended a revision of the Judiciary system; announced the conclusion of a treaty with Prussia; referred to the pending negotiation with Great Britain, and mentioned that the envoys to France had been received with respect, which excited a hope of success. But it urged nevertheless the establishment of a navy "adapted to *defensive* war," the fortification of the principal seaports and harbors; and provisions for the manufacture of arms. The product of the revenue was stated to have been larger than that of any former year, a result which afforded "conclusive evidence of the great resources of this country, and of the wisdom and efficiency of the measures which have been adopted by Congress for the protection of commerce and preservation of public credit."

The Senate, after a warm tribute to the memory of Washington, expressed their determination to carry into effect the measures recommended by the President, dep-

* Nov. 22, 1800.

recating innovations which might impair the sacred bond that cements the different parts of this Republic. The Address of the House commended the defensive policy which had been adopted, and adverted with satisfaction to the "great and rapid increase of revenue which had arisen from permanent taxes."

After a renewal of the propositions made at the previous session for amending the provisions of the Constitution, which related to the mode of choosing electors of President and members of the House of Representatives; a subject of commanding importance was considered. It was a bill to provide for the more convenient organization of the courts of the United States, which, after much opposition, became a law. An act to continue in force the laws raising an internal revenue was much discussed. After an effort to defeat it, this act also passed; and the law prescribing the mode of valuation under the direct tax was amended.

While these subjects were before the House, General Davie arrived in the United States, bringing with him a Convention concluded with France on the thirtieth of October previous. He was also the bearer of a letter to Hamilton from Ellsworth, covering a copy of this document, and a journal of the proceedings of the negotiators. This communication from a person who had been a leading member of the Senate, and Chief-Justice of the United States, shows his sense of the influential position of Hamilton.

The primary object of the instructions to the envoys was indemnity for the spoliations committed under the color of authority from the French Republic or its agents. Of these the captures made, because the vessels were laden with goods coming from England or her possessions, or because they were not provided with the *role*

d'equipage prescribed by the laws of France, or for the want of other papers when clearly American—or when disposed of without a regular trial and condemnation, were indicated as the most important subjects of reclamation.

Such indemnity being pledged, and a mode for ascertaining it being provided, by which also claims for injuries to France or her subjects were to be adjusted, a treaty of commerce on the basis of reciprocity was to be made, securing, if possible, a free admission to the French colonies. Such treaty was to proceed without this indemnity, in the contingency of France waiving her *national* claims, when a similar waiver might be made on behalf of the United States. Sales of prizes by the Consuls of either party in the territory of the other were to be prohibited, as was also any original arming or increase of a former armament in the ports of the neutral party; and the trade of either party to the ports of the other was to be perfectly free, except as to contraband articles, which were enumerated. Sequestrations or confiscations of debts in funded property or in public or private banks, in case of war, were not to be made. This article with that relating to compensations for captures was to be permanent, the other articles were not to extend beyond ten or twelve years.

The *ultimata* were declared to be the prescribed provisions for compensation; that the former treaties and Consular convention should not in the whole nor in part be revived, but that all the engagements of the United States should be specified in a new treaty,—that no guarantee should be stipulated of any part of the dominions of France, nor any engagements in the nature of an alliance,—that no aid or loan should be promised in any form,—that no engagement be made, inconsistent with the obligations of

any prior treaty,—that no stipulation should be entered into granting Consular powers under color of which France might establish tribunals within the United States; or personal privileges be claimed by Frenchmen incompatible with the complete sovereignty of the United States;—and that the duration of the treaty should not exceed twelve years. Thus, it is seen, that, in fulfilment of Hamilton's policy, besides securing indemnity for the spoliations of its commerce, every precaution was taken to prevent the recurrence of acts by which the sovereignty and neutrality of this Republic had been violated; and that the noxious preferences, and the dangerous guarantee granted by the treaty of seventeen hundred seventy-eight, were to be excluded.

The actual conduct of this negotiation was confided by Bonaparte to Talleyrand, and exhibited in its progress his great address. The claim for redress was met by a suggestion, that the first object would be to determine the mode of procedure for the valuation and indemnification of injuries; and the second, to ensure the execution of the treaties of seventy-eight. Evidence of the suspension of the hostile acts of Congress was also asked.

A plan of a treaty in conformity with their instructions, was submitted by the envoys, who stated that the ancient treaties having been rescinded, a priority had attached in favor of the treaty with Great Britain. This view was not acceded to, Bonaparte insisting, that the ancient treaties ought to be the basis of negotiation, they only giving the right to compensation; and avowing, that no treaty could be concluded, which did not place France at least on a footing of equality with Great Britain. After some delay, the envoys proposed that the payment of the indemnities should be suspended until the United States should have offered an article to France, re-establish-

ing her in the exclusive privileges she claimed under the treaty of seventeen hundred and seventy-eight.

This proposal was rejected, and the alternative was offered of a recognition of the ancient treaties with stipulations of indemnity, or a new treaty promising equality, unattended with indemnities. After much negotiation, the envoys resolved to depart from their instructions, and offered an unlimited recognition of the former treaties, accompanied with a provision to extinguish such privileges claimed under them as were detrimental to the United States, by a pecuniary equivalent to be paid out of the stipulated indemnities. This offer was not accepted. It was, on the contrary, declared, that it was indispensable to the granting of indemnities, not only, that the former treaties should have an unqualified recognition; but that their future operation should not be varied; and it was added, that the real object was to avoid indemnities, and that it was not in the power of France to pay them!

The envoys then determined to conclude a Convention. The first article contained the usual declaration of peace and friendship. The second stipulated, as the ministers could not agree about the old Treaties and the Consular Convention, nor as to the indemnities mutually claimed, that they would negotiate respecting them at a *convenient time;* and, until they may have agreed upon these points, the treaties and the convention were to have no operation, but that the relations of the two nations shall be regulated by a Convention then entered into. It also provided, that *public* ships which have been or may be taken *shall* be *restored*, and that property captured and not yet condemned definitively, was to be mutually given up on proof of ownership;—that debts either of the two nations or individuals, shall be paid,—that their vessels, privateers, and their prizes shall be treated

as those of nations the most favored,—that free ships should make free goods and the converse—that neutral vessels under convoy shall not be visited, the assurances of the convoy being conclusive. Armed ships entering ports with their prizes were to be free of duty—the prizes were not to be seized, nor the lawfulness of those prizes to be inquired into, but this stipulation was not to extend beyond that to the most favored nation; and it was stipulated, that the privateers of an enemy shall not refit their ships, sell or exchange their prizes, or purchase provisions, except such as should be necessary to enable them to proceed to the next port of their own Country. This Convention was without any limitation as to its duration.

The letters addressed to Hamilton from members of both branches of Congress, show the indignation with which this compact was received. A strong disposition was felt to reject it.

"I am surprised and mortified that our envoys signed it," was the language of one of these letters. "It appears to me they have done nothing on the real points of complaint. One part of the treaty abandons all our rights, and the other part makes us the dupes of France in the game she means to play against the maritime power of England. We lose our honor by restoring the ships we have taken; and by doing so, perhaps make an implicit acknowledgment of the injustice of our hostile operations. One stipulation is directly in violation of our treaty with Great Britain. Such are the blessed effects of our mission. These are the ripened fruits of this independent Administration. Our friends in the Senate are not enough recovered from their astonishment to begin to reflect on the course they shall pursue." "What," writes another, "is to be done with the French treaty? How was Mr. Ellsworth persuaded to sign it? What are the feelings of Mr. Adams on this result of his *great work*."

The prospect of a general peace in Europe was offered as an apology for entering into this Convention.

It was also used as an argument for its ratification. Hamilton took a different view of the future, which events confirmed. He saw nothing to warrant the belief, that Bonaparte sought any thing more than a temporary pacification, thus to dissolve the coalition against France, and obtain time to prepare for the execution of the vast projects he was contemplating.

He had written to the Secretary of State that the Convention ought to be ratified. Similar views were communicated to his other friends.

"The Convention with France," he remarked to Sedgewick, "is just such an issue as was to have been expected. It plays into the hands of France, by the precedent of those principles of navigation, which she is at this moment desirous of making the basis of a league of the northern powers against England. This feature will be peculiarly disagreeable to the latter; and as it relates to the general politics of the world, is a make weight in the wrong scale. The stipulation about privateers and prizes is of questionable propriety. If third powers are entitled to the benefit of the annulling of our treaties with France, it is a plain violation of our compact with Great Britain. But, I rather think it the better opinion, that pending the differences which produced that measure, it is a matter purely between France and ourselves, by which no third power has a right to profit, and that even the *status quo* would not have been a violation of our engagements with Great Britain.

"Thus situated, I am of opinion, the treaty must be ratified. The contrary conduct, would, I think, utterly ruin the Federal party, and endanger our internal tranquillity. Moreover, it is better to close the thing where it is than to leave it to a Jacobin administration to do much worse. This is a deliberately formed sentiment; and I hope will accord with the conclusions of our friends. At the same time, I wish it to be declared, by our friends in the Senate, that they think the treaty liable to strong objections, and pregnant with dangers to the interests of this country; but, having been negotiated, they will not withhold their assent. Reason should govern." *

* Though rejoicing at the treaty, Jefferson, looking to his own elevation,

He also wrote to Gouverneur Morris:

"I will run the risk with you of giving countenance to a charge lately brought against me, though it has certainly had a very false direction. I mean that of being fond of giving advice.

"Several friends at Washington inform me, that there is likely to be much hesitation in the Senate about ratifying the Convention with France. I do not wonder at it, and yet I would be sorry that it should mature itself into a disagreement to the instrument. Having viewed its present form, I think it should be ratified.

"In my opinion, there is nothing in it, contrary to our treaty with Great Britain. The annulling of our former treaties with France was an act of reprisal, in consequence of hostile differences—of which no other power had a right to benefit; and which, upon an accommodation, might have been rescinded even to the restoration of the *status quo*. Great Britain is now, in this respect, in a better situation than she was when she made the treaty. She has so far no good cause to complain. There are, indeed, features which will not be pleasant to the British Cabinet—particularly, the principle, that free ships shall make free goods, and that the flags of ships of war shall protect. As these are points, upon which France was endeavoring to form hostile combinations against Great Britain, the giving place to them in the Convention will have an unfriendly countenance towards her; and as it regards a good understanding between her and us, is to be regretted in the present moment. Yet we had a right to make those stipulations, and as they may be fairly *supposed* to be advantageous to us, they are not, in fact, indications of enmity. They give no real cause of umbrage; and considering the general interests of Great Britain and her particular situation, it does not seem probable, that they will produce on her part a hostile conduct.

"As to the indemnification for spoliations, that was rather to be wished than expected, while France is laying the world under contribution. The people of this country will not endure that a definitive rupture with France shall be hazarded on this ground. If this Convention is not closed, the leaving of the whole subject open will render it easier for a Jacobin administration to make a worse thing. On the whole, the least evil is to ratify. The contrary would finish

remarks: "It has some disagreeable features; and will endanger the compromitting us with Great Britain."

the ruin of the Federal party, and endanger our internal tranquillity. It is better to risk the dangers on the other, than on this side."

Morris entertaining scruples about the ratification, Hamilton again wrote to him.

"No well-informed man can doubt that it is an exceptionable instrument; but I continue of the opinion, that it is best upon the whole to ratify it unconditionally. It does not appear to me, that on fair construction, the *existence* of the old treaties is recognized; though a right of mutual indemnities as to the past is admitted. But, inasmuch as it is declared, that they shall hereafter have no effect until a future agreement, this appears to me to amount to the *consent* of France, that they shall become inoperative and null; unless they shall be revived by the *consent* of the United States. So far, I think, that something is gained. For the right of one party to annul a treaty is a litigious right, never consummated, till the other party waives its opposition. This is now in substance done by France. And, in my opinion, to have advanced so far is a matter of considerable importance.

"The indemnification for spoliation is, I admit, virtually relinquished, as the price of a waiver of the treaties; but considering our situation, and the immense and growing power of France, that price is not too great. Further, there are such potent obstacles in the nature of things to the obtaining of effectual indemnification, that it is very well to leave it to the chapter of accidents.

"The restoration of ships of war is an unpleasant, and, I will not deny, rather a humiliating thing. But as it is in *form* reciprocal, it does not seem to me that unequivocal species of dishonor, which ought to induce us to run great risks. Our conduct, heretofore, has gone on the ground, that though we ought not to submit to *unequivocal disgrace*, yet we ought not to be too susceptible or over-curious and nice. In this spirit, we have borne a great deal, sometimes too much, from all the *belligerents*. Circumstances do not now invite to a different course. Our rapid progress to *strength*, will, ere long, encourage to and warrant higher pretensions.

"You seem to have gotten over the difficulty of the supposed collision between the Convention and our Treaty with Britain. You already know that this accords with my opinion. Yet it seems to me the most thorny point, as it draws into question our faith towards a

third power. This gotten over, there is not, in my apprehension, any remaining obstacle to a full ratification which may not be overcome.

"The limitation of the treaty as to time is doubtless desirable, but we may be sure it will not be eternal, in fact. Perpetual peace will not exist. A war cuts the knot, and leaves us free to renew or not, to renew absolutely, or with qualifications. With this view of the subject, I do not consider the objections to a simple ratification to be strong enough to countervail the dangers of a qualified one, which, certainly, will leave it in the option of the other party to recede.

"It is possible, that in the pride of success, our backwardness to ratify may be the pretext of a rupture to punish the presumption. Under existing circumstances, such an event would be disastrous, if not for the evils which the arms of France might inflict, yet for the hazard of internal schisms and discord. The mania for France has in a great degree revived in our country, and the party which should invite a rupture would be likely to be ruined. Perhaps with the administration we are going to have, there may be less danger of rupture than with one of a different cast; yet not much reliance can be placed on this circumstance, and there is another side to the question which deserves attention.

"If the present Convention be ratified, our relations to France will have received a precise shape. To take up the subject anew, and mould it into a shape better according with Jacobin projects, will not be as easy, as finding the whole business open, to give it that shape. I think it politic, therefore, to close as far as we can.

"Again, it will be of consequence to the Federal cause in future, to be able to say, the Federal administration steered the vessel through all the storms raised by the contentions of Europe into a peaceful and safe port. This cannot be said, if the contest with France continues open. Enclosed you have some recent intelligence, which seems to strengthen the argument for a simple ratification. Great Britain stands on a precipice. The misfortune for her, is, that there are manifest symptoms of a depreciated and depreciating paper currency. This may cut deep. The result is that a good understanding with the United States is more than ever necessary to Great Britain. She will not lightly take umbrage, while France is in a position to ride a high horse. These facts cannot prudently be excluded from the calculation."

The conjecture of Hamilton in this admirable letter as

to the impression made by this Convention upon the British cabinet was confirmed by advices from the American ambassador in London. Lord Grenville stated, that he saw nothing in it inconsistent with the treaty with England, or which afforded them any ground of complaint; nor did he object to any thing, except the article respecting convoys, which we were certainly free to make, but which, nevertheless, just at the present juncture, alluding to the misunderstanding with the Northern powers, "had somewhat of a less friendly appearance than might have been wished." This Convention was under discussion from the sixteenth of December until the third of February. The excitement which it caused at first, gradually gave way before Hamilton's advice, which, however, did not prevail in full. To get rid of the objectionable features, it was resolved to ratify it conditionally, rejecting the second article, which might have been construed by France as admitting the existence of the former treaties; and the third, which stipulated the restoration of the public vessels that had been captured. On the final vote, the second article was expunged by a large majority, the third was permitted to remain, but the duration of the Convention was proposed to be limited to eight years.*

Adams immediately nominated James A. Bayard en-

* Nine Senators were opposed to it. Thirty-one voted for it. The nine negatives were—the Senators from Massachusetts, Connecticut, and Pennsylvania—Morris of New York, Wells of Delaware, Read of South Carolina,—Stephen Thomson Mason to Monroe, February 5, 1801. "Adams stated to the Senate that it would have been more conformable to his own judgment and inclination to have agreed to the instrument *unconditionally*." "Where then," he observed, "was the danger of this negotiation? Nowhere but in the disturbed imagination of Alexander Hamilton. To me only was it dangerous. To me as a public man it was fatal, and that only because Alexander Hamilton was pleased to wield it as a poisoned weapon, with the express purpose of destroying."

voy to France, who declined the appointment. The Convention so modified was confirmed by Bonaparte. Thus the great end of Hamilton's foreign policy was attained. With Great Britain war was postponed,—with France peace preserved. Indignant as he was at the humiliation the American character had suffered, and resolved to resist at every hazard the aggravated aggressions her Revolutionary rulers were committing, Hamilton never forgot the day when, standing between Washington and Rochambeau, he saw the surrender of Cornwallis to the United arms of America and France—the portrait of whose benevolent, unfortunate Monarch was always suspended before him. Justly might he feel that by his energetic and moderate counsels this great "good"—PEACE—had been preserved to a nation whose government was only in the twelfth year of its existence.*

Ellsworth having determined to remain in France for the restoration of his health, resigned his seat on the bench of the Supreme Court. At the recent session of the legislature of New York, Jay, in a message to which it was not usual to return an answer, on the morning of the day when the electors of President were to be chosen, alluded "to the patriotic zeal and important services of the President." This commendation gave, at the time, not a little umbrage to the Federalists. A sincere respect for the services of Jay had secured to him their long continued, faithful, zealous support. They had labored to appease the dissatisfactions ascribed to him;

* Τί εστιν αγαθον, * * * *
* * * * * * *
* * * * *
* * *

νυν ευρον· ειρηνη 'στιν· ω Ζευ φιλτατε
της επαφροδιτου και φιλανδρωπου θεου.

* * * * *
* * *
* * * ταυτα παντ' αν εκλιπη
τεθνηκε κοινη πας ο των ζωντων βιος

Fragment from Pyrrhus of Philemon.

and to soothe the prejudices his own prejudices had excited, by appealing from his defects to his great and substantial merits. But the estrangement from him was extensive, and though long kept out of view, was now little diguised. An eulogium upon Adams, by the statesman, whom they had most warmly defended from the charge of "British influence," upon the man who had ruined their party, while imputing to it such influence, delivered publicly on the very day, at the very moment, which preceded the triumph of their adversaries, was unexpected. Jay wrote to the President communicating a copy of his message, which Adams acknowledged with warmth, but in terms of little dignity. An opportunity was soon offered of manifesting his gratitude. Though Jay had previously declined the office of Chief Justice of the Supreme Court of the United States, and had, within a few days, publicly declared his intention to retire from public life, Adams nominated him to the vacancy. The office was again declined;* and Marshall was placed at the head of the National judiciary—the sphere of his long invaluable service.

While the Senate of the United States were engaged in the consideration of the Convention with France, the attention of the nation was fixed upon the issue of the election of its chief magistrate.

The Electoral Colleges assembled in each State on the appointed day. As to those of Virginia and New York, the course of each was a source of solicitude to the respective candidates of the Democracy. The diversion at the previous election of the fifteen votes of Virginia to Samuel Adams had given Burr dire offence. He

* "I consider it impossible," Wolcott wrote, "that Mr. Jay should consent to take the office of Chief Justice; and it is deeply to be regretted, that the President will so sport with such serious things."

regarded and denounced it as an act of bad faith; and at the Caucus of the Democratic members of Congress, it was made a condition of his consent to become a candidate, that a pledge should be given, to secure, if practicable, an equal vote to him with Jefferson. A violation of this pledge by Virginia might lose the vote of New York. To guard against this contingency, Madison wrote to Monroe, then Governor of Virginia:

"I now inclose a letter left here by Mr. Alston (son-in-law of Burr.) It will communicate all that I could repeat from one to me from Colonel Burr and Mr. Gelston. The latter is uneasy lest the Southern States would not be true to their duty. I hope he will be sensible, that there was no occasion for it. It seems important that all proper means should emanate from Richmond for guarding against a division of the Republican votes, by which one of the Republican candidates may be lost. *It would be superfluous to suggest to you the mischief resulting from the least ground of reproach, and particularly to Virginia on this head.*"

It being supposed by Burr, that an equal vote would thus be secured in other States, it would decide the election in his favor, could a single vote be diverted from Jefferson. This was attempted in the Electoral College of New York. Reasons existing to apprehend that Burr had obtained the control of one of the electors, a person of feeble intellect, residing in the city of New York; how to frustrate this infidelity, became a matter of anxious consultation. An expedient was resorted to which succeeded. At the meeting of the Electors, as soon as their credentials were read, Floyd, a member from Long Island, took the floor; and, assigning as a reason for the course he proposed, that they were unanimous, moved, that the vote by secret ballot be dispensed with; and that each elector should place his ballot openly on the table! This was carried without debate, and thus the entire vote of

New York was secured to Jefferson.* A similar diversion of a vote from Burr had been contemplated in South Carolina, but was not effected. †

The general official result was not ascertained for some time; but positive intelligence of the vote of South Carolina was received at the seat of government, on the *thirteenth* of December. There was now every reason to suppose, that there would be "an absolute parity between Jefferson and Burr." ‡ If so, the election would devolve upon the House of Representatives.

Two sources of apprehension opened upon Jefferson. One, that the members from New York might be induced to withdraw from him her vote. The other, that the Federalists would prefer Burr. He applied himself immediately to remove the first of these obstacles to his ambition.

A majority of the Representatives from New York were of the Democratic party, the most influential of these was Edward Livingston, the brother of the Chancellor of that State. The day *after*, the vote of South Carolina was known § at Washington, Jefferson wrote to the latter. ‖

* Statement of Judge Woodworth, one of the electors. Cheetham wrote to Jefferson—"One New York elector—'Lispenard'—was to have dropped him, but was alarmed not to do it. Burr went twice to Rhode Island. Timothy Green was his agent at the seat of government of South Carolina."

† This is seen in a letter of Freneau of the 2d December received by Jefferson on the 12th, advising him that "he would have 8 votes, Burr 7, Clinton 1."

‡ Jefferson to Madison, iii. 447, Dec. 19, 1800.

§ Dec. 14, 1800. Jefferson's Works, iii. 442.

‖ In the life of Jefferson by Tucker, ii. 75, it is stated: "In the month of December, when the issue of the election was ascertained, Mr. Jefferson, *not anticipating* that equality of votes between Colonel Burr and himself which would carry the election to the House of Representatives, began to look about for the formation of his cabinet; and having concurred with the *general voice*

This letter* is characteristic. The Chancellor had been much interested in experiments on the application of steam, the use of which he afterwards essentially promoted. He was also something of a philosopher. But these were the amusements of his leisure—neither these nor his judicial duties so far engrossed him as to render him inattentive to other interests.

Jefferson commenced his letter by informing Livingston, that his communications on the steam-engine had been laid before the Philosophical Society, by whom they would be printed. He then mentioned a recent discovery of bones, supposed to be of the mammoth, in his vicinity, and propounded two interesting questions. First. "Whether they are the bones of the mammoth?" Second. "What are the particular bones; and could he possibly procure them?" "If they are to be bought," he added, "I will gladly pay for them whatever you shall agree to as *reasonable;* and will place the money in New York as *instantaneously* after it is made known to me, as the post can carry it, as I will all expense of package, transportation, &c."

Having thus given evidence of his interest in natural

of the nation, in selecting Mr. Madison for the department of State and Mr. Gallatin for the Treasury, he wrote to Mr. Robert R. Livingston to offer him the place of Secretary of the Navy." Tucker probably was not aware of the fact, that the South Carolina vote was known at Washington the day *before the date of this letter* to Livingston, which is shown by the previous extract of a letter from Gunn to Hamilton of the 18th of December, written at Washington. Hamilton's Works, vi. 483. Randall makes a similar statement, *with the contradiction before his eyes,* having quoted the pages before and after it in Hamilton's Works, he wrote: "On the 14th of December Mr. Jefferson *supposing* the result of the election sufficiently settled, wrote Chancellor R. R. Livingston, inviting him to accept the Secretary-ship of the Navy." Randall's Jefferson, ii. 572.

* Jefferson's Works, iii. 442. Dec. 14, 1800.

philosophy, on "reasonable" terms; and of his intended punctuality; he proceeded to address him on "a still more important subject." Being satisfied that the republican vote had been successful, he thought he might "venture to hazard propositions on that hypothesis, without being justly subject to raillery or ridicule." The Constitution, he wrote,

"to which we are all attached, was meant to be republican, and we believe to be republican according to every candid interpretation. Yet we have seen it so interpreted and administered, as to be truly what the French have called it, a monarchie masqué. Yet so long," he said, "has the vessel run on this way, and been trimmed to it, that to put her on her republican tack, will require all the skill, the firmness, and the zeal of her ablest and best friends. It is a crisis, which calls on them to sacrifice all other objects; and repair to her aid in this momentous operation,—not only their skill is wanting, but their names also. It is essential to assemble in the outset persons to compose our administration, whose talents, integrity and Revolutionary name and principles, may inspire the nation at once, with unbounded confidence; and impose an awful silence on all the maligners of republicanism; as may suppress in embryo the purpose, avowed by one of their most daring and effective chiefs, of beating down the administration. These names do not abound at this day. So few are they, that yours, my friend, cannot be spared among them, without leaving a blank that cannot be filled. If I can obtain from the public the aid of those I have contemplated, I fear nothing. If this cannot be done, then are we unfortunate indeed!

"We shall be unable to realize the prospects which have been held out to the people, and must *fall back into monarchism*, for want of heads, not hands, to help us out of it. This is a common cause, my dear sir, common to all republicans. Though I have been too honorably placed in front of those who are to enter the breach, so happily made; yet the energies of every individual are necessary; and in the *very place* where his energies can most serve the enterprise. I can assure you, that your colleagues will be most acceptable to you; one of them whom you cannot mistake, peculiarly so.—The part which circumstances constrain us to propose to you, is the Secretaryship of the Navy! These circumstances cannot be explained by letter. Republi-

canism is *so rare* in those parts which possess nautical skill, that I cannot find it allied there to the other qualifications.

"Though you are *not nautical by profession*, yet your residence and your mechanical science qualify you, as well as a *gentleman* can possibly be; and sufficiently, to enable you to choose under agents perfectly qualified, and to superintend their conduct. Come forward, then, my dear sir, and give us the aid of your talents and the weight of your character towards the new establishment of republicanism; I say, for its new establishment; for hitherto, we have seen only its *travestie*."

Having thus compendiously appealed to Livingston's pride of talent, pride of integrity, pride of name, and of Revolutionary principles, to sacrifice all other objects to the great duty of saving a sinking State from the embryo purpose imputed to Hamilton; having shown, how imperative the sacrifice was, because republicanism was rare where nautical skill was possessed, having evinced how easy and how fit the transformation of a Chancellor and of a gentleman into a Secretary of the Navy, for the purpose of getting rid of a "travestie" of republicanism, Jefferson closed his letter, with the comforting assurance with which it began, that as the gratification of his own philosophical curiosity should cost him nothing, so this sacrifice to his country, by the acceptance of a place in the Cabinet, would be attended with little "expense" in a "situation so rural" as that of Washington. Livingston was not insensible to the appeal, but differing from Jefferson as to the "very place" where his energies could "most serve the enterprise," and not equally alive to the dangers of the Union, he preferred a foreign mission.

The next thing to be attempted was to cajole Burr. Jefferson wrote to him by the same hand which was to convey his missive to the Chancellor. It is seen, that in his letter to the latter, he sought to mask his object by concealing the "absolute parity of votes;" and assuring

him, that "HE was placed *in front* of those who were to enter the breach."

To Burr, he gratuitously wrote the next day:

"It is said," South Carolina "would withdraw from yourself one vote, that Tennessee would give the second vote to Gallatin. It is also surmised, that the vote of Georgia will not be entire," but, that, if this were so, he would have 'four or five votes at least above Mr. Adams.' That 'it was badly managed' to have 'left to hazard what might frustrate *half* the republican wish."

Thus giving the impression to Burr that he would be chosen Vice President, he wrote him:

"While I must congratulate you, my dear sir, on the issue of this contest, because it is more honorable and doubtless more grateful to you than any station within the competence of the Chief Magistrate; yet *for myself, for the substantial service of the public*, I feel most sensibly the loss we sustain of your aid in our new administration. It leaves a chasm in my arrangements, which cannot adequately be filled up." "I had endeavored to compose an administration, whose talents, integrity, names, and dispositions should at once inspire unbounded confidence in the public mind, and ensure a perfect harmony in the conduct of the public business. *I lose you from the list*, and am not sure of all the others."

Then appealing to Burr's, and gratifying his own hate of Hamilton, he observed:

"Should the gentlemen who possess the public confidence decline taking a part in their affairs, and force us to take persons unknown to the people, the *evil genius* of this country may realize his avowal, that 'he will beat down the administration.' "We shall of course see you before the fourth of March. Accept my *respectful* and *affectionate* salutations."

This letter, founded on a false representation of his own* impressions of the result, written under great ap-

* It was written Dec. 15, *two days* after the intelligence from South Carolina had reached Washington. Jefferson's Works, iii. 444.

prehensions, intended to induce the belief by Burr that in the event of Adams being elected Vice President, Jefferson had purposed to include him in the Cabinet, evidently had for its object to conciliate him in a competition which he feared was inevitable from "the parity of votes," which, he after wrote to Madison, had "produced great dismay and gloom in the Republican gentlemen here and exultation in the Federalists."

Burr understood him; and with equal candor replied.* "I see no reason to doubt of your having at least nine States, if the business shall come before the House of Representatives. * * * In short, my whole time and attention shall be unceasingly employed to render *your* administration grateful and honorable to your country and to yourself. To this, I am impelled by the highest sense of duty, as by *the most devoted personal attachment.*"

With the same view Jefferson wrote again to Burr, while the controversy was pending, pronouncing a letter, purporting to be his, and containing statements, "highly injurious" to Burr, which the person who saw it and who knew his handwriting, did not doubt to be genuine, a forgery, transmitting a *press copy* of it; and deprecating "attempts to sow tares between them, that might divide them and their friends." It ended with the observation, "A mutual knowledge of each other furnishes us, with the best test of the contrivances which will be practised by the enemies of both," and tendered "*assurances of his high respect and esteem.*" †

* Dec. 23, 1800.

† Yet, in vol. iv. 520, of Jefferson's Works, he records, "I had never seen Colonel Burr till he came as a member of the Senate. His conduct very soon *inspired me with distrust.* I *habitually cautioned* Mr. Madison against trusting him too much. I saw, afterwards, that under General Washington's and Mr. Adams's administrations, whenever a great military appointment or a diplo-

Four days after * his former letter to Burr, he wrote to Madison, informing him, that South Carolina had in some measure decided the contest; and his belief, that he and Burr had each seventy-three votes, Adams sixty-five, and Pinckney one less—that Rhode Island had withdrawn one vote from Pinckney—that Tennessee might do the same as to Burr, and that there might be one vote in Vermont for himself. But he observed, "I hold the latter impossible, and the former not probable, and—that there will he *an absolute parity* "between the two republican candidates;" that the Federalists openly declared they would prevent an election, and would name a President pro tem. He then recapitulated the seven States on whose votes he counted in the House of Representatives, adding, "and it is thought by some, that *Bache* of Maryland, and *Linn of New Jersey will come over.*"

On the tenth of January Madison replied:

"On the supposition of either event, whether of an interregnum in the Executive or of a surreptitious intrigue into it, it becomes a question of the first order, what is the course demanded by the crisis. Will it be best to acquiesce in a suspension or usurpation of the Executive authority, till the meeting of Congress in December next; or for Congress to be summoned by a *joint* proclamation or recommendation of the two characters, having a majority of votes for President? My present judgment *favors the latter expedient.* The prerogative of convening the legislature *must* reside in *one* or *other* of them; and if *both* concur, must substantially include the requisite will. The intentions of the people would undoubtedly be pursued. And if, in reference to the Constitution, the proceeding be not *strictly* regular, the ir-

matic one was to be made, he came post to Philadelphia, to show himself; and, in fact, that he was always *at market* if they wanted him;—with these impressions there had never been an intimacy between us, and but little association. When I destined him for a high appointment, it was out of respect for the favor he had obtained with the Republican party, by his extraordinary exertions and success in the New York election in 1800."

* Dec. 19.

regularity will be less in form, than any other adequate to the emergency, and will be in *form only*, rather than in substance. Whereas the other remedies proposed are substantial violations of the will of the people, of the scope of the Constitution, and of the public order and interest."

Such was Madison! This suggestion was countenanced by Jefferson.*

The excitement of Virginia is seen in other counsels. A judge of much notoriety, wrote the Governor, three days before, recommending the legislature to remain in session, until the event of the Presidential election be known; inquiring whether it will not be prudent to provide for an additional number of arms; and to amend the laws (if necessary) for organizing and training the militia; and wise to publish an address to the people, suggesting the propriety of instructing their representatives, as to the expediency of calling a Convention of the State, or requiring Congress to assemble a Convention of the United States. The same person suggested soon after, instead of a President, that a deputy be elected from each State, to compose a federal executive council. †

Another proposes the removal of the arms and the military stores of the State to Harper's Ferry, and placing over them a guard of militia, avowing his apprehension, that:

"Hamilton will perhaps be bold enough to procure himself to be declared President, and endeavor by means of English aid and the disaffected to State sovereignty, to maintain the usurpation. * * * He declares Congress ought to obey the will of the people, and gains favor with the people, while perhaps he maintains he has the power to make a President if one cannot be regularly made by the constitu-

* Jefferson's Works, iv. 355, ed. 1854.

† St. George Tucker to Monroe, January 7 and February 25, 1801.

tional day, and intrigues to be chosen himself. A desperado in the chair and English force is their only hope now, I believe. But perhaps they are too completely discomfited to try it." *

* Thomas Mann Randolph, son-in-law of Jefferson, to Monroe, February 14, 1801.

CHAPTER CLVI.

From these scenes it is a relief to turn away, and follow Hamilton in his elevated course, at this momentous crisis of his country. His correspondence proves, that HE DECIDED the question of the Presidency; and that his decision was made under circumstances and from motives, which show, that he was solely governed by the highest and largest considerations of the public welfare. It furnishes one of the proudest triumphs of his character.

As soon * as he received the letter of General Gunn, he wrote to Wolcott, thus hoping to give a direction to the course to be pursued by the Federal members of Congress.

"It is now, my dear sir, ascertained, that Jefferson or Burr will be President, and it seems probable they will come with equal votes to the House of Representatives. It is also circulated here, that, in this event, the Federalists in Congress, or some of them, talk of preferring Burr. I trust New England, at least, will not so far lose its head as to fall into this snare. There is no doubt, but that, upon every virtuous and prudent calculation, Jefferson is to be preferred. He is by far not so dangerous a man; and he has pretensions to character.

"As to *Burr*, there is nothing in his favor. His private character is not defended by his most partial friends. He is bankrupt beyond redemption, except by the plunder of his country. His public princi-

* Dec. 16. 1800.

ples have no other spring or aim than his own aggrandizement, *per fas aut nefas*. If he can, he will certainly disturb our institutions, to secure himself *permanent power*, and with it *wealth*. He is truly the Catiline of America. But early measures must be taken to fix on this point the opinions of the Federalists. Among them, from different motives, Burr will find partisans. If the thing be neglected, he may possibly go far."

The day after, he again addressed Wolcott:

"There is no circumstance which has occurred in the course of our political affairs, that has given me so much pain as the idea that Mr. Burr might be elevated to the Presidency, by the means of the Federalists. I am of opinion, that this party has hitherto solid claims of merit with the public, and so long as it does nothing to forfeit its title to confidence, I shall continue to hope that our misfortunes are temporary, and that the party will ere long emerge from its depression. But if it shall act a foolish or unworthy part in any capital instance, I shall then despair.

"Such without doubt will be the part it will act, if it shall seriously attempt to support Mr. Burr, in opposition to Mr. Jefferson. If it fails, as after all is not improbable, it will have riveted the animosity of that person, will have destroyed or weakened the motives to moderation which he must at present feel, and it will expose them to the disgrace of a defeat in an attempt to elevate to the first place in the Government, one of the worst men in the community. If it succeeds, it will have done nothing more nor less than place in that station a man who will possess the boldness and daring necessary to give success to the Jacobin system, instead of one, who for want of that quality, will be less fitted to promote it.

"Let it not be imagined, that Mr. Burr can be won to the Federal views.* It is a vain hope. Stronger ties, and stronger inducements than they can offer, will impel him in a different direction. His ambition will not be content with those objects which virtuous men of either party, will allot to it; and his situation and his habits will oblige him to have recourse to corrupt expedients, from which he will be restrained by no

* Ames wrote: "I doubt whether Burr will be Federal, if chosen by Feds; and he would reconcile himself to his old friends as soon as he can." Ames, i. 291.

moral scruple. To accomplish his end, he must lean upon unprincipled men, and will continue to adhere to the myrmidons who have hitherto surrounded him. To these, he will no doubt add able rogues of the Federal party, but he will employ the rogues of all parties to overrule the good men of all parties, and to prosecute projects which wise men of every description will disapprove. These things are to be inferred with moral certainty from the character of the man. Every step in his career, proves that he has formed himself upon the model of *Catiline*, and he is too cold-blooded, and too determined a conspirator ever to change his plan.

"What would you think of these toasts and this conversation at his table within the last three or four weeks? 1st. The French Republic. 2d. The Commissioners on both sides who negotiated the Convention. 3d. Bonaparte. 4th. La Fayette. What would you think of his having seconded the positions, that it was the interest of this country to allow the belligerent powers to bring in and sell their prizes, and build and equip ships in our ports? Do you not see in this the scheme of war with Great Britain, as the instrument of power and wealth? Can it be doubted, that a man who has all his life speculated upon the popular prejudices, will consult them in the object of a war when he thinks it is expedient to make one? Can a man, who, despising democracy, has chimed in with all its absurdities, be diverted from the plan of ambition which must have directed his course? They who suppose it must understand little of human nature?

"If Jefferson is President, the whole responsibility of bad measures will rest with the Anti-Federalists. If Burr is made so by the Federalists, the whole responsibility will rest with them. The other party will say to the people, 'We intended him only for Vice President, there, he might have done very well, or been at least harmless. But the Federalists, to disappoint us, and a majority of you, took advantage of a momentary superiority to put him in the first place. He is therefore their President, and they must answer for all the evils of his bad conduct.' And the people will believe them.

"Will any reasonable calculation on the part of the Federalists uphold the policy of assuming so great a responsibility in the support of so unpromising a character? The negative is so manifest, that, had I not been assured of the contrary, I should have thought it impossible, that assent to it would have been attended with a moment's hesitation. Alas! When will men consult their reason rather than their

passions? Whatever they may imagine, the desire of mortifying the adverse party must be the chief spring of the disposition to prefer Mr. Burr. This disposition reminds me of the conduct of the Dutch moneyed men, who, from their hatred of the old aristocracy, favored the admission of the French into Holland, to overturn every thing. Adieu to the Federal Troy, if they once introduce this Grecian horse into their citadel.

"Trust me, my dear friend, you cannot render a greater service to your country, than to resist this project. Far better will it be to endeavor to obtain from Jefferson assurances on some cardinal points. 1st. The preservation of the actual fiscal system. 2d. Adherence to the neutral plan. 3d. The preservation and gradual increase of the Navy. 4th. The continuance of our friends in the offices they fill, except in the great departments, in which he ought to be left free. Adieu—ever yours."

The first letters Hamilton received on this subject were from Otis, and from Sedgewick, the Speaker of the House.

By Otis the questions were propounded,

"Whether any terms could be obtained from Burr favorable to the true interests of the country, and whether he would adhere to terms when stipulated? Whether it was advisable to attempt a negotiation with him, in what manner, and through what channel? What should be the outlines of an agreement with him, and what security can be devised for his adherence to it?" "It is palpable, that to elect him would be to cover the opposition with chagrin, and to sow among them the seeds of a mortal division."

Sedgewick, having stated in confidence part of the character of the recent convention with France, communicated to him facts indicating the probability of the election of President coming to the House. He observed,

"Should the House have to decide between these *rivals* (Jefferson and Burr) *my opinion would prefer the former* for reasons which will readily occur to you. In this, many of *my* friends differ from me.

They suppose that Burr, if preferred, will be compelled to throw himself into the hands of the Federal party."

Hamilton replied to him on the twenty-second of December:

"I entirely agree with you, my dear sir, that, in the event of Jefferson and Burr coming to the House of Representatives, the former is to be preferred. The appointment of Burr as President would disgrace our country abroad. No agreement with him could be relied on. His private circumstances render disorder a necessary resource. His public principles offer no obstacle. His ambition aims at nothing short of *permanent power* and wealth in his own person. For Heaven's sake, let not the Federal party be responsible for the elevation of this man."

His reply to Otis was to the same effect:*

"Burr loves nothing but himself; thinks of nothing but his own aggrandizement, and will be content with nothing, short of permanent power in his own hands. No compact that he should make with any passion in his breast, except ambition, could be relied upon by himself. How then should we be able to rely upon any agreement with him. Jefferson, I suspect, will not dare much. Burr will dare every thing, in the sanguine hope of effecting every thing."

Two days after, he wrote to Gouverneur Morris:

"*Jefferson* or *Burr*. The former, without all doubt. The latter, in my judgment, has no principle public or private; could be bound by no agreement; will listen to no monitor but his ambition, and for this purpose will use the worst part of the community as a ladder to climb to *permanent power*,† and an instrument to crush the better part. He is bankrupt beyond redemption, except by the resources that grow out of war and disorder, or by a sale to a foreign power, or by great

* Dec. 23, 1800.

† Dwight Foster to the author. May 20, 1859. "My grandfather," (then a member of the Senate of the United States from Massachusetts), "said, he heard Col. Burr, while Vice President, make the remark, that a man who was President was a d——d fool if he did not remain so for life, if he wished to."

peculation. War with Great Britain would be the immediate consequence. He is sanguine enough to hope every thing—daring enough to attempt every thing—wicked enough to scruple nothing. From the elevation of such a man, Heaven preserve the country!

"Let our situation be improved to obtain from Jefferson *assurances* on certain points—the maintenance of the present system, especially in the cardinal articles of PUBLIC CREDIT—a NAVY—NEUTRALITY. Make any discreet use of this letter."

Morris had written to Hamilton. In this letter, which was received by him after that last quoted, he mentioned,

"That, at first, it was proposed to prevent any election and thereby throw the government into the hands of a President of the Senate; that it even went so far as to cast about for the person." He dissuaded it as "a wild measure;" and said, "it seems now to be given up." "The object of many is to take Mr. Burr, and I should not be surprised if that measure was adopted. Not meaning to enter into intrigues, I have merely expressed the opinion, that, since it was evidently the intention of our fellow-citizens to make Mr. Jefferson their President, it seems proper to fulfil that intention."

After a brief view of the consequences of either course, he concluded:

"I should do injustice to my opinion of your intuitive judgment, should I dilate any farther. You are better acquainted with character and opinions than I possibly can be; and your ideas will have weight in the minds of many here, should you think proper to transmit them through some accustomed channel of communication. The subject is certainly of high consideration, and the circumstances of the moment are of peculiar delicacy."

In reference to such a project Hamilton wrote:

"It has occurred to me, that, perhaps the Federalists may be disposed to play the game of preventing an election, and leaving the Executive power in the hands of a future President of the Senate.

"This, if it could succeed, would be, for obvious reasons, a most dangerous and unbecoming policy. But it is well it should be under-

stood, that it *cannot succeed.* The Anti-Federalists as a body prefer Jefferson, but among them are many who will be better suited by the *dashing projecting* spirit of Burr; and who, after doing what they will suppose to be *saving appearances*, will go over to Burr. *Edward Livingston* has declared among his friends that his first ballot will be for Jefferson, his second for Burr. The present is a crisis which demands the exertions of men who have an interest in public order. Adieu."

Hamilton again wrote Morris:

"I trust the Federalists will not finally be so mad as to vote for Burr. I speak with an intimate and accurate knowledge of character. His elevation can only promote the purposes of the desperate and profligate. If there be a man in the world I ought to hate, it is Jefferson. With Burr I have always been personally well. BUT THE PUBLIC GOOD MUST BE PARAMOUNT TO EVERY PRIVATE CONSIDERATION. My opinion may be freely used with such reserves as you shall think discreet."

He also addressed a letter, of which no copy is preserved, to Marshall, to which he replied:

"To Mr. Jefferson, whose political character is better known than that of Mr. Burr, I have felt almost insuperable objections. His foreign prejudices seem to me totally to unfit him for the chief magistracy of a nation which cannot indulge those prejudices without sustaining deep and permanent injury. In addition to this solid and immovable objection, Mr. Jefferson appears to me to be a man, who will embody himself with the House of Representatives. By weakening the office of President, he will increase his personal power. He will diminish his responsibility, sap the fundamental principles of the government, and become the leader of that party which is about to constitute the majority of the legislature. The morals of the author of the letter to Mazzei cannot be pure.

"Your representation of Mr. Burr, with whom I am totally unacquainted, shows that from him still greater danger than even from Mr. Jefferson may be apprehended. Such a man as you describe, is more to be feared, and may do more immediate, if not greater, mischief. Believing that you know him well, and are impartial, my preference would certainly not be for him, but I can take no part in this business. I

cannot bring myself to aid Mr. Jefferson. Perhaps respect for myself should, in my present situation, deter me from using any influence (if, indeed, I possessed any,) in support of either. Although no consideration could induce me to be the Secretary of State, while there was a President whose political system I believed to be at variance with my own; yet this cannot be so well known to others, and it might be suspected that a desire to be well with the successful candidate had in some degree governed my conduct. With you, I am in favor of ratifying our treaty with France, though I am far, very far, from approving it."

According to the most probable calculations, Bayard, the representative of Delaware, could by his vote decide the result. Hamilton, it is seen, had, in the preceding year, looking to the probability that the election would come to the House, disclosed to him briefly his opinion of the Democratic candidates. He again addressed him on the twenty-seventh of December:

"Several letters to myself and others from the city of Washington, excite in my mind extreme alarm on the subject of the future President. It seems nearly ascertained that Jefferson and Burr will come into the House of Representatives with equal votes, and those letters express the probability that the Federal party may prefer the latter. In my opinion, a circumstance more ruinous to them, or more disastrous to the country could not happen. This opinion, is dictated by a long and close attention to the character, with the best opportunities of knowing it, an advantage for judging it, which few of our friends possess, and which ought to give some weight to my opinion. Be assured, my dear sir, that this man has no principle, public or private. As a politician, his sole spring of action is an inordinate ambition; as an individual, he is believed by friends, as well as foes, to be without *probity*, and a voluptuary by system; with habits of expense that can be satisfied by no fair expedients. As to his talents, great management and cunning are the predominant features; he is yet to give proofs of those solid abilities which characterize the statesman. Daring and energy must be allowed him, but these qualities under the direction of the worst passions, are certainly strong objections, not recommendations. He is of a temper to undertake the most hazardous enterprises,

because he is sanguine enough to think nothing impracticable; and of an ambition that will be content with nothing less than *permanent power in his own hands.* The maintenance of the existing institutions will not suit him, because, under them, his power will be too narrow and too precarious; yet the innovations he may attempt will not offer the substitute of a system *durable* and *safe*, calculated to give lasting prosperity, and to unite liberty with strength. It will be the system of the day, sufficient to serve his own turn, and not looking beyond himself. To execute this plan, as the good men of the country cannot be relied upon, the worst will be used. Let it not be imagined that the difficulties of execution will deter, or a calculation of interest restrain. The truth is, that under forms of government like ours, too much is practicable to men who will without scruple, avail themselves of the bad passions of human nature. To a man of this description possessing the requisite talents, the acquisition of permanent power is not a chimera. I *know*, that Mr. Burr does not view it as such; and I am sure there are no means too atrocious to be employed by him. In debt vastly beyond his means of payment, with all the habits of excessive expense, he cannot be satisfied with the regular emoluments of any office of our government. Corrupt expedients will be to him a necessary resource. Will any prudent man offer such a President to the temptations of foreign gold? No engagement that can be made with him can be depended upon. While making it, he will laugh in his sleeve at the credulity of those with whom he makes it, and the first moment it suits his views to break it he will do so.*

"Let me add, that I could scarcely name a discreet man, of either party, in our State, who does not think Mr. Burr the most unfit man in the United States for the office of President. Disgrace abroad, ruin

* "A recent incident will give you an idea of his views as to foreign politics. I dined with him lately, his toasts were, 'The French Republic;' 'the Commissioners who negotiated the Convention;' 'Bonaparte;' 'The Marquis La Fayette.' His doctrine is, that it would be the interest of this country to permit the indiscriminate sale of prizes by the belligerent powers, and the building and equipment of vessels; a project amounting to nothing more nor less, (with the semblance of equality,) than to turn all our naval resources into the channel of France, and compel Great Britain to war. Indeed, Mr. Burr must have war, as the instrument of his ambition and cupidity. The peculiarity of the occasion will excuse my mentioning, *in confidence*, the occurrences of a private table."

at home are the probable fruits of his elevation. To contribute to the disappointment and mortification of Mr. Jefferson would be, on my part, only to retaliate for unequivocal proofs of enmity; but, in a case like this, *it would be base to listen to personal considerations.* In alluding to the situation, I mean only to illustrate how strong must be the motives which induce me to promote *his* elevation, in exclusion of another. For Heaven's sake, my dear sir, exert yourself to the utmost to save our country from so great a calamity. Let us not be responsible for the evils which, in all probability, will follow the preference. All calculations that may lead to it must prove fallacious. Accept the assurances of my esteem."

The determined opposition of Hamilton to Burr, caused an idea to be promulgated, that his preference of Jefferson had arisen from personal antipathy to the former. In a conversation with a friend, he adverted to this impression, and appeared to be extremely wounded by it. He did not merely disclaim the sentiment as unworthy and totally false, but entered fully into considerations to show, that if motives of personal feeling could have influenced his judgment, they would have operated rather to the prejudice of Jefferson, than of Burr. He observed:

"That during the first administration, on various questions of the highest importance to the country which arose from the critical circumstances in which the government was placed, frequent collision of sentiment had arisen between him and Jefferson, and that for several years they had been competitors for the respect and confidence not merely of the President, but of the national legislature, and of the country at large. That between himself and Colonel Burr, no personal competition could be supposed to exist, unless at the bar; but there, their respective circle of connections and sources of business were separated by so broad a line and distinction, that any interference or rivalship on this ground was incredible to a person of reflection. That, if competition existed anywhere, it was more likely to take place between himself and the more eminent Counsel in the federal interest.

"For the talents of Burr as an *advocate* he professed a high

respect, but as a *political character* he frankly avowed the opinion, that, if elected to the Presidency, Colonel Burr would greatly disappoint the expectations of those gentlemen in Congress, who, with the best views, were endeavoring to advance him to the highest office in the United States.

"In this confidential conversation, not a word escaped from Hamilton indicative of malevolence towards Burr, which had it existed would not probably have been disguised." *

While Hamilton was making every exertion to direct the Federal vote in favor of the man, who had denounced him to Burr, as "the evil genius of his country," Jefferson and his partisans were actively employed.

A meeting was held in Philadelphia for the purpose of giving an impulse to the Democratic distrust of Burr, at which Jefferson's superior pretensions were exhibited. Fearful, lest the Federalists might pursue the wild scheme of making a legislative President, Jefferson called upon Adams; † and stated "that such a measure would probably produce resistance by force, and incalculable consequences, which it would be in his power to prevent by negativing such an act." He represents Adams as having made "his mind up to the usurpation," but the statement would be incredible, were it not confirmed beyond a doubt. ‡

* Samuel Bayard of New Jersey to Editor Evening Post. July 20, 1804.

† Anas. Jefferson's Works, iv. 522.

‡ "I know no more danger," Adams wrote to Gerry, Feb. 7, 1801, "of a political convulsion if a President *pro tempore*, of the Senate, or a Secretary of State, or Speaker of the House, should be made President by Congress, than if Mr. Jefferson or Mr. Burr is declared such. The President would be as legal in one case, as in either of the others, in my opinion; and the people as well satisfied." Adams's Works, ix. 98. John Randolph, in view of the danger to which the government was now exposed, "often expressed the opinion in after life, *that we owed the safety of the Republic to Hamilton.*" Life of Randolph by Garland, i. 187.

A letter to Hamilton from a member of the Senate* shows the irritated anxiety under which the partisans of Jefferson were writhing:

"On the subject of choosing a President some revolutionary opinions are gaining ground, and the Jacobins are determined to resist the election of Burr, at every hazard. Most of the Jacobin members will be instructed not to vote for him. I have seen a letter from Mr. Madison to one of the Virginia Representatives, in which he says, that in the event of the present House of Representatives not choosing Mr. Jefferson President, that the *next House* of Representatives will have a right to choose one of the two; having the highest number of votes; and that the nature of the case aided by the support of the great body of the people, will justify Jefferson and Burr *jointly* to call together the members of the next House of Representatives, previous to the third of December next, for the express purpose of choosing a President, and that he is confident *they* will make a *proper* choice. In other parts of his letter he speaks of America being degraded by the *attempt* to elect Burr, President. What say you my friend? The little Virginian must have been a little—— at the time he wrote his friend. I am persuaded, the Democrats have taken their ground with a fixed resolution to destroy the Government sooner than yield their point. General Smith had an interview with Burr in Philadelphia last Sunday. He wishes to be Secretary of the Navy." "I fear," added General Gunn, "some of our friends have committed themselves by writing improperly to Burr. *We know the man*; and those who put themselves in his power, will *repent* their folly."

This opinion of a distinguished soldier of the Revolution extended to a small part of the Federalists. The members of that party from Virginia, irritated by the asperity of their local controversies, and by the proscription they had suffered, leaned to Burr. The same disposition was also felt in South Carolina. Hamilton wrote to John Rutledge, expressing his "extreme anxiety" to change the views of that State. "As long," he wrote,

* Gunn to Hamilton, January 9, 1801. Hamilton's Works, vi. 508.

"as the Federal party pursue their high ground of integrity and principle, I shall not despair of the public weal, but if they quit it and descend to be the willing instruments of the elevation of the most unfit and most dangerous man of the community to the highest station in the Government, I shall no longer see any anchor for the hopes of good men. I shall at once anticipate all the evils that a daring and unprincipled ambition, wielding the lever of Jacobinism, can bring upon an infatuated country. * * * 'Tis not to the chapter of accidents, that we ought to trust the Government, peace and happiness of our country. 'Tis enough for us to know that Mr. Burr is one of the most unprincipled men in the United States, to determine us to decline being responsible for the precarious issues of his calculations of interest. * * * You cannot in my opinion render a greater service to your Country, than by exerting your influence to counteract the *impolitic* and *impure* idea of raising Mr. Burr to the Chief Magistracy."

The Federalists of South Carolina reasoned, "if Burr's Presidency were productive of evil, that it would be easy to excite jealousy as to his motives, and to get rid of him; and opposed by the Virginia party, that it would be *his interest* to conciliate the Federalists. They were assured by Burr, that he was disposed to maintain and expand their systems. Were he to attempt an usurpation, that he would endeavor to accomplish his ends by the union of daring spirits, and could be easily resisted. If Jefferson were disposed to make what, he would term it, an improvement of our Constitution, the attempt would be fatal, for he would begin by democratizing the people and throwing every thing into their hands." *

* John Rutledge to Hamilton, January 10, 1801.

While such considerations influenced the South, Gouverneur Morris wrote to Hamilton:

"Some, indeed, most of our Eastern friends, are warm in support of Burr; and their pride is so much up about the charge of *influence*, that it is dangerous to quote an *opinion*. I trust they will change or be disappointed, for they appear to be moved by passion only. I have, more at the request of others, than from my own mere *motion*, suggested certain considerations, not quite unworthy of attention, but it is dangerous to be impartial in politics. You who are temperate in drinking have never perhaps noticed the awkward situation of a man, who continues sober after the company are drunk."

Hamilton wrote:

"I hasten to give you some information which may be useful. I know as a fact, that overtures have been made by leading individuals of the Federal party to Burr, who declines to give any assurances respecting his future intentions and conduct, saying, that to do it might injure him with his friends, and prevent their co-operation; that all ought to be inferred from the necessity of his future situation, as it regarded the disappointment and animosity of the Anti-Federalists; that the Federalists, relying upon this, might proceed in the certainty that, upon a *second* ballot, New York and Tennessee would join him.

"It is likewise ascertained, that he perfectly understands himself with Edward Livingston, who will be his *agent* at the seat of government. Thus you see that Mr. Burr is resolved to preserve himself in a situation to adhere to his former friends, engagements, and projects; and to use the Federalists as the *tools* of his aggrandizement.

"The hope that by his election he will be separated from the Anti-Federalists, is a perfect farce. He will satisfy them that he has kept himself free to continue his relations to them, and as many of them are secretly attached to him, they will all be speedily induced to rally under his standard, to which he will add the unprincipled of our party, and he will laugh at the rest. It is a fact, that Mr. Burr is now in frequent and close conference with a Frenchman, who is suspected of being an agent of the French government, and it is not to be doubted that he will be the firm ally of Bonaparte.

"You are at liberty to show this letter to such friends as you think fit, especially Mr. Bayard, of Delaware, in whose principles and sound

sense I have much confidence. Depend on it, men never played a more foolish game than will do the Federalists, if they support Burr."

It was important to produce an impression upon Pennsylvania. With this view, Hamilton also wrote to Ross, the able and distinguished Senator from that State:

"Letters which myself and others have received from Washington, give me much alarm at the prospect that Mr. Burr may be supported by the Federalists in preference to Mr. Jefferson. Be assured, my dear sir, that this would be a fatal mistake. From a thorough knowledge of the characters, I can pronounce with confidence, that Mr. Burr is the last man in the United States to be supported by the Federalists.

"*First.* It is an opinion firmly entertained by his enemies, and not disputed by his friends, that, as a man, he is deficient in *honesty*. Some very sad stories are related of him. That he is bankrupt for a large deficit is certain. *Second.* As a politician, discerning men of both parties admit that he has but one principle—to get power by *any* means, and to keep it by *all* means. *Third.* Of an ambition too irregular and inordinate to be content with institutions that leave his power precarious, he is of too bold and sanguine a temper to think any thing too hazardous to be attempted, or too difficult to be accomplished. *Fourth.* As to talents, they are great for management and intrigue—but he is yet to give the first proofs that they are equal to the art of governing well. *Fifth.* As to his theory, no man can tell what it is. Institutions that would serve his own purposes, (such as the Government of France of the present day,) not such as would promise lasting prosperity and glory to the country, would be his preference, because he cares only for himself, and nothing for his country or glory. *Sixth.* Certain that his irregular ambition cannot be supported by good men, he will *court* and *employ* the worst men of all parties as the most eligible instruments. Jacobinism in its most pernicious form will scourge the country. *Seventh.* As to foreign politics, war will be a necessary mean of power and wealth. The animosity to the British will be the handle by which he will attempt to wield the nation to that point. Within a fortnight, he has advocated positions, which, if acted upon, would in six months place us in a state of war with that power. From the elevation of such a man may Heaven preserve the country. Should

it be by the means of the Federalists, I should at once despair. I should see no longer any thing upon which to rest the hope of public or private prosperity.

"No. Let the Federalists vote for Jefferson. But, as they have much in their power, let them improve the situation to obtain some assurances from him. 1. The preservation of the actual system of finance and public credit. 2. The support and gradual increase of the navy. 3. A *bona fide* neutrality towards the belligerent powers. 4. The preservation in office of our friends, except in the great departments, in respect to which and to future appointments he ought to be at liberty to promote his friends."

Reasons similar to those he had before urged were added in favor of ratifying the Convention with France.

CHAPTER CLVII.

NOTWITHSTANDING the earnest persevering advice of Hamilton, distrust of Jefferson, a hope of dividing the Democratic party by the elevation of Burr, and indignation at the injurious influence of Southern politics upon the interests of the navigating States, were seen to operate powerfully. The inclination of the Federalists to throw their vote in that direction increased.

Sedgewick again wrote Hamilton a letter,* which was obviously the result of more than one mind:

"No decision is yet had, though there is, I believe, a strong preponderance of opinion against Jefferson. In his favor, it is said, that it was the intention, that he should be elected President, of a large majority of those who voted for him. But wherefore was this preference given to him? Because, it is answered, he was known to be hostile to all those great systems of administration, the combined effect of which is our national prosperity and all we possess of national character and respectability; because he is a sincere and enthusiastic Democrat in principle, plausible in manners, crafty in conduct, persevering in the pursuit of his object, regardless of the means by which it is attained, and equally regardless of an adherence to truth, as is demonstrated by his letter to Mazzei, his declarations in the Senate, on his first taking his seat there, &c., &c.; because he is known to be devoted to the views of those men, in his State, whose unceasing effort, it has been, and is, to reduce in *practice*, the administration of this government to

* Hamilton's Works, vi. 511. January 10, 1801.

the principles of the old Confederation, in which that State, by her numerous representation, and the influence she has on surrounding States, will be the dictatrix. Because he is known to be servilely devoted to one foreign nation under any form of Government, and pursuing any system of measures, however hostile to this country, and unrelentingly hostile to another nation, and those the two nations on earth with which we have the most interesting relations, and with which it is most important to preserve an equal and impartial regard. Ought we then to respect the preference which is given to this man from such *motives* and by such *friends?*

"As to the other candidate, there is no disagreement as to his character. He is ambitious—selfish—profligate. His ambition is of the worst kind; it is a mere love of power, regardless of fame, but as its instrument; his selfishness excludes all social affections, and his profligacy unrestrained by any moral sentiment, and defying all decency. This is agreed, but then it is known, that his manners are plausible, that he is dexterous in the acquisition and use of the means necessary to effect his wishes. Nothing can be a stronger evidence of this than the situation in which he stands at this moment—without any pretension from connections, fame, or services—elevated by his own independent means to the highest point to which all those can carry the most meritorious man in the nation.

"He holds to no pernicious theories, but is a mere matter-of-fact man. His very selfishness prevents his entertaining any mischievous predilection for foreign nations. The situation in which he lives has enabled him to discern and justly appreciate the benefits resulting from our commercial and other national systems; and this same selfishness will afford some security, that he will not only patronize their support, but their invigoration. There are other considerations. It is very evident that the Jacobins dislike Mr. Burr as President—that they dread his appointment more than even that of General Pinckney. On his part, he hates them for the preference they give to his rival. He has expressed his displeasure at the publication of his letter by General Smith. This jealousy, distrust and dislike, will every day more and more increase, and more and more widen the breach between them. If, then, Burr should be elected by the Federalists against the hearty opposition of the Jacobins, the wounds mutually given and received will probably be incurable. Each will have committed the unpardonable sin. Burr must depend on good men for his support, and that support he cannot receive but by a conformity to their views.

"In these circumstances, then, to what evils shall we expose ourselves by the choice of Burr, which we would escape by the election of Jefferson? It is said, that it would be more disgraceful to our country and to the principles of our government. For myself, I declare, I think it impossible to preserve the honor of our country or the principles of our Constitution.

"By a mode of election, which was intended to secure to pre-eminent talent and virtues the first honors of our country, and for ever to disgrace the barbarous institutions by which executive power is to be transmitted through the organs of generation, we have at one election placed at the head of our government a semi-maniac, and who in his soberest senses, is the greatest marplot in nature; and at the next a feeble and false, enthusiastic theorist, and a profligate without character and without property, bankrupt in both.

"But, if there remain any thing for us, in this respect, to regard, it is with the minority in the Presidential election; and can they be more disgraced than by assenting to the election of Jefferson?—the man who has proclaimed them to the world as debased in principle and as detestable and traitorous in conduct? Burr is indeed unworthy, but the evidence of his unworthiness is neither so extensively known, nor so conclusive as that of the other man. It must be confessed that there is a part of the character of Burr more dangerous than that of Jefferson. Give to the former a probable chance, and he would become an usurper. The latter might not incline, he certainly would not dare to make the attempt. I do not believe that either would succeed, and I am even confident that such a project would be rejected by Burr, as visionary. At first, I confess, I was strongly disposed to give Jefferson the preference; but the more I have reflected, the more I have been inclined to the other; yet, however, I remain unpledged, even to my friends, though, I believe, I shall not separate from them."

Hamilton now received a reply from Bayard. After mentioning a letter from Burr to Colonel Smith, constituting him his proxy, to disavow any design to interfere with the election of Jefferson, as being

"understood to have proceeded either from a false calculation as to the result of the electoral votes, or intended as a cover to blind his own party."

Bayard stated, that it was distinctly understood by persons

friendly to Burr, that he is willing to consider the Federalists as his friends, and to accept the office of President as their gift; and that he took it for granted, that Burr would not only gladly accept the office, but would neglect no mean in his power to secure it. There appeared to be, he observed, "a strong inclination in a majority of the Federal party to support Burr. The current has already acquired considerable force, and is manifestly increasing."

"His vote," he said, "could decide the question in favor of Jefferson, but he was then by no means decided as to the object of preference; and if the Federalists should take up Burr, he ought to be impressed with the most undoubting conviction before he separated from them; that he would fear as much from the sincerity of Jefferson, if he was sincere, as from the want of probity in Burr. Another view gave him some inclination in favor of Burr. He considered the State ambition of Virginia as the source of present party, and that the faction which governed that State aimed to govern the United States,—that Virginia would be never satisfied but when that state of things existed, and that the election of Burr would produce a schism which would soon rise into open opposition. Still he could not deny there were strong considerations which gave a preference to Jefferson. The subject admitted of many and very doubtful views; and he resolved to wait the approach of the crisis which might probably bring with it circumstances decisive of the event. It would, he continued, be a painful struggle, to disappoint the views of many with whom he had been accustomed to act, but the magnitude of the subject forbade the sacrifice of a strong conviction."

Feeling that his influence with Bayard, should it prevail, would decide the question of the Presidency, Hamilton answered at great length. Hitherto in his correspondence, he had only drawn a bold outline of Burr, now he delineates, with graphic accuracy, the opposing candidates.

"I was glad to find, my dear sir, by your letter, that you had not yet determined to go with the current of the Federal party, in the support of Mr. Burr, and that you were resolved to hold yourself disengaged, till the moment of final decision. Your resolution to separate yourself, in this instance from the Federal party, if your conviction shall

be strong of the unfitness of Mr. Burr, is certainly laudable. So much does it coincide with my ideas, that if the party shall, by supporting Mr. Burr as President, adopt him for their official chief, I shall be obliged to consider myself as an *isolated* man. It will be impossible for me to reconcile with my notions of *honor* or policy, the continuing to be of a party, which, according to my apprehension, will have degraded itself and the country. I am sure, nevertheless, that the motives of many will be good; and I shall never cease to esteem the individuals, though I shall deplore a step, which, I fear, experience will show to be a very fatal one. Among the letters which I receive, assigning the reasons *pro* and *con* for preferring Burr to Jefferson, I observe no small exaggeration to the prejudice of the latter, and some things taken for granted, as to the former, which are at least questionable. Perhaps, myself the first, at some expense of popularity, to unfold the true character of Jefferson, it is too late for me to become his apologist. Nor can I have any disposition to do it. I admit, that his politics are tinctured with fanaticism, that he is too much in earnest in his democracy, that he has been a mischievous enemy to the principal measures of our past administration; that he is crafty and persevering in his objects, that he is not scrupulous about the means of success, nor very mindful of truth, and that he is a contemptible hypocrite. But, it is not true, as is alleged, that he is an enemy to the power of the Executive, or that he is for confounding all the powers in the House of Representatives. It is a fact, which I have frequently mentioned, that while we were in the administration together, he was generally for a large construction of the Executive authority, and not backward to act upon it in cases which coincided with his views.

"Let it be added, that, in his theoretic ideas he has considered as improper the participations of the Senate in the Executive authority. I have more than once made the reflection, that viewing himself as the reversioner, he was solicitous to come into possession of a good estate. Nor is it true, that Jefferson is zealot enough to do any thing in pursuance of his principles, which will contravene his popularity, or his interest. He is as likely as any man I know, to temporize, to calculate what will be likely to promote his own reputation and advantage; and the probable result of such a temper is the preservation of systems, though originally opposed, which, being once established, could not be overturned without danger to the person who did it. To my mind, a true estimate of Mr. Jefferson's character warrants the

expectation of a temporizing rather than a violent system. That Jefferson has manifested a culpable predilection for France, is certainly true; but I think it a question, whether it did not proceed quite as much from her *popularity* among us, as from sentiment; and, in proportion as that popularity is diminished, his zeal will cool. Add to this, that there is no fair reason to suppose him capable of being corrupted, which is a security that he will not go beyond certain limits. It is not at all improbable, that under the change of circumstances, Jefferson's Gallicism has considerably abated.

"As to BURR, these things are admitted, and, indeed, cannot be denied, that he is a man of *extreme* and *irregular* ambition; that he is *selfish* to a degree which excludes all social affections; and that he is decidedly *profligate*. But, it is said, 1st, that he is *artful* and *dexterous* to accomplish his ends; 2d, that he holds no pernicious theories, but is a mere *matter-of-fact* man; 3d, that his very selfishness * is a guard against mischievous foreign predilections; 4th, that his *local situation* has enabled him to appreciate the utility of our commercial and fiscal systems, and the same quality of selfishness will lead him to support and invigorate them; 5th, that he is now disliked by the Jacobins; that his elevation will be a mortal stab to them, breed an invincible hatred to him, and compel him to lean on the Federalists; 6th, that BURR's ambition will be checked by his good sense, by the manifest impossibility of succeeding in any scheme of usurpation; and that, if attempted, there is nothing to fear from the attempt. These topics are, in my judgment, more plausible than solid. As to the first point, the fact must be admitted; but those qualities are objections, rather than recommendations, when they are under the direction of bad principles. As to the 2d point, too much is taken for granted. If BURR's conversation is to be credited, he is not very far from being a visionary. He has quoted to me *Connecticut* as an example of the success of the democratic theory, and as authority, (his) serious doubts whether it was not a good one. It is ascertained, in some instances, that he has talked perfect *Godwinism*. I have myself heard him speak with applause of the French system, as unshackling the mind, and leaving it to its natural energies, and I have been present when he has contended against Banking systems † with

* "It is always very dangerous to look to the *vices* of men for *good*."

† "Yet he has lately by a trick, established a *Bank*, a perfect monster in its principles; but a very convenient instrument of *profit* and *influence*.

earnestness and with the same arguments that Jefferson would use. The truth is, that Burr is a man of a very subtle imagination, and a mind of this make is rarely free from ingenious whimsies. Yet I admit, that he has no fixed theory, and that his peculiar notions will easily give way to his interest. But is it a recommendation to have *no theory?* Can that man be a systematic or able statesman who has none? I believe not. *No general principles* will hardly work much better than erroneous ones. As to the 3d point, it is certain, that Burr, generally speaking, has been as warm a partisan of France as Jefferson; that he has, in some instances, shown himself to be so with passion. But if it was from calculation, who will say that his calculations will not continue him so? His selfishness* so far from being an obstacle, may be a prompter. If corrupt, as well as selfish, he may be a partisan for gain. If ambitious, as well as selfish, he may be a partisan for the sake of aid to his views. No man has trafficked more than he in the floating passions of the multitude. Hatred to Great Britain, and attachment to France, in the public mind, will naturally lead a man of his selfishness, attached to place and power, to favor France and oppose Great Britain. The Gallicism of many of our patriots is to be thus resolved, and, in my opinion, it is morally certain that Burr will continue to be influenced by this calculation. As to the 4th point, the instance I have cited with respect to Banks, proves that the argument is not to be relied upon. If there was much in it, why does Chancellor Livingston maintain that we ought not to cultivate navigation, but ought to let foreigners be our carriers? France is of this opinion, too; and Burr, for some reason or other, will be very apt to be of the opinion of *France.* As to the 5th point, nothing can be more fallacious. It is demonstrated by recent facts,† that Burr is *solicitous* to *keep* upon *anti-federal* ground to avoid compromitting himself by any engagements‡ with the Federalists. With or without such engagements, he will easily persuade his former friends, that he does stand on that ground; and after their first resentment, they will be glad to rally under him. In the mean time, he will take care not to disoblige them; and he will always court those among them who are

* "Unprincipled selfishness is more apt to seek rapid gain in disorderly practices, than slow advantages from orderly systems."

† "My letter to Mr. Morris states some of them."

‡ "He trusts to their *prejudices*, and *hopes* for support."

best fitted for tools. He will never choose to lean on good men, because he knows that they will never support his bad projects; but, instead of this, he will endeavor to disorganize both parties, and to form out of them a third, composed of men fitted by their characters to be conspirators, and instruments of such projects. That this will be his future conduct, may be inferred from his past plan, and from the admitted quality of irregular ambition. Let it be remembered, that Mr. Burr has never appeared solicitous for fame, and that great ambition, unchecked by principle, or the love of glory, is an unruly tyrant, which can never keep long in a course which good men will approve. As to the last point, the proposition is against the experience of all times. Ambition without principle, never was long under the guidance of good sense. Besides that, really, the force of Mr. *Burr's* understanding is much overrated. He is far more *cunning* than *wise;* far more *dextrous* than *able.*

"In my opinion, he is inferior, in real ability, to Jefferson. There are, also, facts against the supposition. It is past all doubt, that he has blamed me for not having improved the situation I once was in to change the government. That when answered, that this could not have been done without guilt, he replied, "Les grands âmes se soucient peu des petits moraux;" that when told the thing was never practicable, from the genius and situation of the country, he answered, "that depends on the estimate we form of the human passions, and of the means of influencing them." Does this prove that Mr. Burr would consider a scheme of usurpation as visionary. (Very, very confidential.")*

"The truth is, with great apparent coldness, he is the most sanguine man in the world. He thinks every thing possible to adventure and perseverance. And though I believe he will fail, I think it almost certain he will attempt usurpation, and the attempt will involve great mischief. But, there is one point of view which seems to me decisive.

* An anecdote has been some years in print as having been derived from Burr—that when Hamilton was appointed Inspector-General, Burr observed, "Will General Hamilton seize the present opportunity to give a stable government to his country and provide for his friends?" to which Hamilton replied, "Colonel Burr thinks General Hamilton ambitious. He is ambitious, but his ambition is to deserve well of his country." This may have grown out of the statement in the text.

If the Anti-Federalists, who prevailed in the election, are left to take their own man, they remain responsible, and the Federalists remain *free*, *united* and without *stain*, in a situation to resist, with effect, pernicious measures. If the Federalists substitute BURR, they adopt him and become answerable for him. Whatever may be the theory of the case, abroad and at *home*, (for so from the beginning will be taught) Mr. BURR will become *in fact*, the man of our party; and if he acts ill, we must share in the blame and disgrace. By adopting him, we do all we can to reconcile the minds of the Federalists to him, and we prepare them for the effectual operation of his arts. He will, doubtless, gain many of them; and the Federalists will become a disorganized and contemptible party. Can there be any serious question between the policy of leaving the Anti-Federalists to be answerable for the elevation of an exceptionable man, and that of adopting ourselves, and becoming answerable for a man, who, on all hands, is acknowledged to be a complete Cataline? 'Tis enough to state the question to indicate the answer, if reason, not passion, presides in the decision. You may communicate this, and my former letter, to discreet and confidential friends."

Immediately after writing this letter, Hamilton proceeded to the Supreme Court at Albany.

Thence he wrote to Sedgewick:

"Being in a hurry to leave New York for this place, I comprised in a letter to Bayard, some observations which, had I had time, I should have put in a reply to your last. I requested him to communicate it to you, and I beg of you, as you love your country, your friends and yourself, to reconsider dispassionately the opinion you have expressed in favor of Burr. I never was so much mistaken, as I shall be, if our friends, in the event of their success, do not rue the preference they will give to that Cataline. Adieu." *

The mode of conducting the election of President had been referred to a committee of the House of Representatives, and a report was made prescribing the rules to be observed. Upon its being ascertained, that no person

* January 21, 1801.

had a constitutional majority, the House were to proceed, in the presence of the Senate, to choose by ballot, which was to be continued without interruption by other business until a President was chosen. After commencing the ballot, they were not to adjourn until a choice was made; and the balloting was to be conducted with closed doors. An unsuccessful opposition by the Democratic party was made, to the two last rules, but the report was approved.

On the eleventh of February the votes given by the Electoral Colleges were counted.

From the total result it appeared, that there was an equal vote in favor of Jefferson and Burr. The House returned to their chamber, and commenced balloting. All of the members were present, except two; one absent—another, for whom a bed was prepared in one of the committee-rooms, to whom the ballot-box of the State of Maryland was carried. On the first ballot, eight States, New York, New Jersey, Pennsylvania, Virginia, North Carolina, Georgia, Kentucky and Tennessee, voted for Jefferson. Six—New Hampshire, Massachusetts, Rhode Island, Connecticut, Delaware and South Carolina,* for Burr. Vermont and Maryland gave a divided vote.

The ballotings were continued throughout the day and night, with short intervals, until noon of the following day, with the same result. The House, exhausted with fatigue, then adjourned to the next day at eleven o'clock, when, one ballot being taken with the same issue, it adjourned until the following day, when four ballots were taken, but with a like termination. The House then separated until the sixteenth of February, when the

* One Federal member. Huger voted for Jefferson.

thirty-fourth ballot gave a similar issue. It again adjourned until the seventeenth; when, after one ballot of the same character, on the thirty-sixth ballot, at one o'clock P. M., the suffrages of ten states elected Jefferson, those of Maryland and Vermont, the federal members from each giving blank ballots, being added to his former vote. The votes of New Hampshire, Massachusetts, Rhode Island and Connecticut were still given to Burr. Bayard of Delaware and the Federalists of South Carolina also cast blank ballots. * †

The course of this procedure is given in a letter

* Jefferson, two days after, in a confidential letter to Madison bears this tribute to the motive of the great body of the Federalists. "Their conduct," (the partisans of Burr) "brought over to us the *whole body* of the Federalists, who being alarmed with the danger of a dissolution of the government, had been made most anxiously to wish the very administration they had opposed, and to view it, when obtained, as a child of their own. Even Hamilton and Higginson have been zealous partisans for us. This circumstance, with the unbounded confidence which will attach to the new ministry as soon as known, will start us on high ground."

† The ballots were previous to the final result:

	For Jefferson.	*For Burr.*	
Massachusetts,	8	11	
New Hampshire,	0	4	
Rhode Island,	0	2	
Connecticut,	0	7	
Vermont,	1	1	
New York,	6	4	
New Jersey,	3	2	
Pennsylvania,	9	4	
Delaware,	0	1	
Maryland,	4	4	
Virginia,	14	5	
North Carolina,	6	4	
South Carolina,	1	3	1 sick, 1 absent
Georgia,	1	0	one dead.
Kentucky,	2	0	
Tennessee,	1	0	

from Bayard to Hamilton, written soon after this result: *

"Your views in relation to this election differed very little from my own, but I was obliged to yield to a torrent which I perceived might be diverted, but could not be opposed.

"In one case I was willing to take Burr, but I never considered it as a case likely to happen. If by his conduct he had completely forfeited the confidence and friendship of his party, and left himself no resort but the support of the Federalists, there are many considerations which would have induced me to prefer him to Jefferson. But I was enabled soon to discover that he was determined not to shackle himself with Federal principles; and it became evident, that if he got in without being absolutely committed in relation to his own party, that he would be disposed and obliged to play the game of McKean † upon an improved plan and enlarged scale.

"In the origin of the business I had contrived to lay hold of all the doubtful votes in the House, which enabled me, according to views which presented themselves, to protract or terminate the controversy. This arrangement was easily made, from the opinion readily adopted from the consideration, that representing a small state, without resources which could supply the means of self-protection, I should not dare to proceed to any length which would jeopardize the Constitution or the safety of any State.

"When the experiment was fully made, and acknowledged upon all hands to have completely ascertained, that Burr was resolved not to commit himself, and that nothing remained but to appoint a President by law, or leave the government without one, I came out with the most explicit and determined declaration of voting for Jefferson. You cannot well imagine the clamor and vehement invective to which I was subjected for some days. We had several caucuses. All acknowledged that nothing but desperate measures remained, which several were disposed to adopt, and but few were willing openly to disapprove. We broke up each time in confusion and discord, and the manner of the last ballot was arranged, but a few minutes before the ballot was given. Our former harmony, however, has since been restored.

"The public declarations of my intention to vote for Mr. Jefferson,

* Mar. 8, 1801. Hamilton's Works, vi. 522.

† Governor of Pennsylvania.

to which I have alluded, were made without a general consultation, knowing that it would be an easier task to close the breach which I foresaw, when it was the result of an act done without concurrence, than if it had proceeded from one against a decision of the party. Had it not been for a single gentleman from Connecticut, the Eastern States would finally have voted in blank, in the same manner as was done by South Carolina and Delaware; but because he refused, the rest of the delegation refused; and because Connecticut insisted upon continuing the ballot for Burr, New Hampshire, Massachusetts and Rhode Island, refused to depart from their former vote.

"The means existed of electing Burr, but this required his co-operation. By deceiving one man (a great blockhead,) and tempting two, (not incorruptible,) he might have secured a majority of the States. He will never have another chance of being President of the United States; and the little use he has made of the one which has occurred gives me but an humble opinion of the talents of an unprincipled man."

The respective conduct of Burr and Jefferson during this election, became subjects of much discussion between their respective partisans. As to the former, it cannot be of importance to consider it after the previous narrative.

The course of Jefferson is placed beyond all doubt by evidence wholly irresistible, part of it given under oath, and in direct contradiction of his own recorded statement.* The testimony of Bayard † is full and explicit, that Jefferson was required to give the assurance of his "support of the public credit, the maintenance of the naval system, and that subordinate public officers employed only in the execution of details, established by law, should not be removed from office on the ground of

* Remarks of James A. Bayard in Senate of U. S. January 31, 1855, vindicating his father.

† Depositions of James A. Bayard, and of General Samuel Smith, Jefferson's "personal and political friend." In the contradiction of Jefferson, Edward Livingston, also his friend, concurred.

their political character, nor without complaint against their conduct; that he, Jefferson, "the points mentioned" having been "stated to him," authorized the assurance to be given, that these views "corresponded with his views and intentions," and that they "might confide in him accordingly;" that "the opposition of Vermont, Maryland and Delaware was immediately withdrawn, and Jefferson was made President." This statement is confirmed by that of a member * from Maryland, that the Federalists "also received assurances from a source on which they placed reliance, that their wishes with regard to certain points of Federal policy in which they felt a deep interest would be observed, in case Jefferson was elected," and that in consequence of such assurances he was elected.

Gouverneur Morris was supposed to enjoy the confidence of his relative, the member from Vermont, † who finally withdrew. A letter from him to Pickering, ‡ shows, that he also *previous* to the election, required and obtained from Jefferson, assurances as to his policy.

These statements, corroborated by other facts, render futile every attempt § to controvert the allegation that he consented to adopt the cardinal objects of the Federal policy, and abandoned his opposition to them, as the price of office. Yet, in despite of all these repeated pledges, Jefferson wrote Monroe: "Many attempts have been made to obtain terms and promises from me. I have de-

* "George Baehr." John Tyler to Monroe, Feb. 9, 1801. "Be assured that the election depends on one of three persons. Bayard from Delaware—and Craig, and Baehr from Maryland. The former, there are reasonable hopes from; the second, full as good."

† Lewis R. Morris.

‡ Life of G. Morris, iii. 249, 250.

§ Madison's comment, Appendix B, to Tucker's Life of Jefferson, ii. 510.

clared to them unequivocally, that I would not receive the Government on capitulation, that I would not go into it with my hands tied."

In the conversation with Bayard, the Collectors of Philadelphia and Wilmington were instanced by him as persons who ought not to be dismissed. These names were mentioned to Jefferson. He gave a satisfactory assurance; and in the midst of general removals of that class of officers, these incumbents were retained.*

But this was not the only mean resorted to by Jefferson. New Jersey was represented by five members, of whom Ketchell and Condit were for Jefferson, two for Burr. One, therefore, would give the majority vote. In a letter to Madison, Jefferson intimated that "Linn" would "come over." Linn cast the vote of that State in his favor, and was appointed by him a "Supervisor of the Internal Revenue." Maryland had eight votes, four of which were Federal, of the remaining four members, one was appointed by him temporarily "Secretary of the Navy,"—another, "Marshal for the Potomac District" in that State. He had obtained their votes. New York had ten members, four of whom were for Burr; of the remaining six, two were necessary to a majority. One of these, who had been indicated by Burr as his partisan, was transferred by Jefferson from an interior county of that State to a lucrative office in the city of New York;† the other, was appointed "District Attorney;"‡ and his brother received a foreign mission. New York had voted for him. To gratify Clinton, the gallant Colonel Fish, distinguished in the assault at Yorktown, who had repeatedly declined office, and, at last, accepted it from the

* Latimer and McLane. [Note at end of Chapter.]

† T. Bailey, appointed Postmaster of the city of New York.

‡ Edward Livingston.

hand of Washington, at the especial instance of Hamilton, was removed as Supervisor of the Revenue, giving place to Osgood, a connection of Clinton. The member, who held and gave to Jefferson the sole vote of Tennessee was appointed "Governor" of the territory of Mississippi.* Kentucky had two members, both voted for him. One of these received an office; and of the three Democratic Representatives from Massachusetts, on one a distinguished station was conferred. †

The House now resumed its legislative duties, which, during this election, had been suspended. Previous to the ratification of the Convention with France, a bill had been introduced to continue the act suspending the intercourse with her, which expired with the session. It was at first proposed to postpone the consideration of it indefinitely. This proposition was rejected. After the Convention had been ratified, this bill was again brought forward. It was argued in favor of its continuance, that, as France might reject the conditions of the Convention, it would be unwise to permit American property to be shipped to her ports, again to become the prey of her cupidity. Local influences were supposed to have governed the final vote; and the non-intercourse act was suffered to expire. The Sedition law also expired with the session. An effort was made to continue it in force, as a law both beneficial to the Government and to the people; to the former, as protecting it from false and malicious libels; to the latter, as securing the right of appealing to the truth as a justification. It was defeated by a majority of four votes. It was then moved, that a bill should be reported, to amend the common law, so as to define the punishment in prosecutions for libel, and to enable the

* Claiborne.

† Levi Lincoln, appointed Attorney-General of the United States.

truth to be given in evidence. This motion was not sustained.

A proposition to release the balances of the State debts was postponed; and a provision for the appointment of an Inspector and Adjutant-General of the Army was rejected.

An appropriation of half a million of dollars was made to complete the six ships of the line previously authorized; and a bill for a Naval peace establishment passed. It provided, that all the public vessels, with the exception of thirteen frigates, should be sold. Of those frigates, six were proposed to be kept in constant duty. Gallatin wished to vest the President with discretion as to the number to be employed, but the provision was made imperative.

As emergencies might render the employment of more naval officers necessary than those immediately required for the service, a certain number were retained on half-pay, when not actually employed. It was also proposed, annually to provide materials for the construction of one ship of the line and one frigate, but this was not acceded to. In the new order of things about to be introduced, economy was of higher consideration than this very moderate, gradual provision for the defence of the nation.

During this feeble legislation, the President was beheld dejected and disconsolate, as day after day wore restlessly, wearily away, until the moment of his exit from office. Though passing through a long career of honors until he reached the highest honor the American people could confer, well might he be of abject thoughts. —Valuable friends he had none. Not a single individual of true respect, of becoming pride, of large capacity or of extended influence would be his friend. To his opponents he could not, with manly defiance, appeal. They knew him, had used him, had abused him, and mocked

him. To himself he could not appeal, for, fatally betraying the great consecrated trust which Washington had left him, in himself he could truly see nothing but reproof.

Thus, while anticipating the inevitable sentence of mankind, his last official hours came. On the night of the third of March, Congress terminated its session, and the following morning, Adams—false to himself—false to his country—especially false to constant, faithful New England, which had raised him to all his elevations—now contemned, degraded, humbled to the earth—stole away from the seat of Government at the dawn of day.*

At noon of that day Jefferson was inaugurated.

* A distinguished person in New England, who had long known him well, wrote, "He will return dejected, yet enraged; and all his vindictive passions will be manifested towards the Federalists, and soothed by the Jacobins. They will visit him, and enjoy his maledictions of the Federalists as monocrats—aristocrats—oligarchs and armicrats. They will begin to puff, and to raise him up to conspicuous disgrace and eminent mischief."

NOTE.

Speech of James A. Bayard on the Judiciary Act, Feb. 20, 1802:

"In that scene I had my part; it was a part not barren of incident, and which has left an impression which cannot easily depart from my recollection. I *know* who were rendered important characters, either from the possession of personal means, or from the accident of political situation. And now, sir, let me ask the honorable member what his reflections and belief will be, when he observes that every man, on whose vote the event of the election hung, has since been distinguished by Presidential favor. I fear, sir, I shall violate the decorum of parliamentary proceeding, in the mentioning of names, but I hope the example which has been set me will be admitted as an excuse. Mr. Charles Pinckney, of South Carolina, was not a member of the House, but he was one of the most active, efficient, and successful promoters of the election of the present Chief Magistrate. It was well ascertained, that the votes of South Carolina, were to turn the equal balance of the scales. The zeal and industry of Mr. Pinckney had no bounds. The doubtful politics of South Carolina were decided, and her votes cast into the scale of Mr. Jefferson. Mr. Pinckney has

since been appointed 'Minister Plenipotentiary' to the Court of Madrid; an appointment as high and honorable as any within the gift of the Executive. I will not deny that this preferment is the reward of talents and services, although, sir, I have never yet heard of the talents or services of Mr. Charles Pinckney. In the House of Representatives, I *know* what was the value of the vote of Mr. Claiborne, of Tennessee. The vote of a State was in his hands. Mr. Claiborne has since been raised to the high dignity of 'Governor' of the Mississippi territory. *I know* how great, and how greatly felt, was the importance of the vote of Mr. Linn, of New Jersey. The delegation of the State consists of five members. Two of the delegation were decidedly for Mr. Jefferson, two were decidedly for Mr. Burr. Mr. Linn was considered as inclining to one side, but still doubtful. Both parties looked up to him for the vote of New Jersey. He gave it to Mr. Jefferson, and Mr. Linn has since had the profitable office of 'Supervisor' of his district conferred upon him. Mr. Lyon, of Vermont, was, in this instance, an important man. He neutralized the vote of Vermont. His absence alone would have given the vote of a State to Mr. Burr. It was too much to give an office to Mr. Lyon; his character was low. But Mr. Lyon's *son* has been handsomely provided for, in one of the executive offices. I shall add to the catalogue but the name of one more gentleman, Mr. Edward Livingston, of New York. I knew well, *full well I knew*, the consequence of this gentleman. His means were not limited to his own vote; nay, I always considered more than the vote of New York, within his power. Mr. Livingston has been made the 'Attorney for the district of New York;' the road of preferment has been opened to him; and his brother has been raised to the distinguished place of 'Minister Plenipotentiary to the French Republic.'"

CHAPTER CLVIII.

RAISED by corruption to the Chief Magistracy of these United States, Jefferson now renewed in public the pledges as to his policy by which he had in private obtained the support of a part of the Federalists, and thus rendered more flagrant his violation of them.

He feared* lest the Senate, exerting its constitutional powers, might reject his nominations to office, and on retiring from that body expressed a strong desire for its support. The Senate assured him, that it would "never be withheld from a Chief Magistrate, who, in the exercise of his office, shall be influenced by a due regard to the honor and interest of the country."

His inaugural address was moulded to the circumstances of his election, inculcating moderation on his followers—throwing out lures to his opponents. Alluding to the recent contest of opinion, while he stated the principle that the will of the majority should govern, he carefully adverted to the equal rights of the minority. "All, too, will bear in mind this sacred principle, that, though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority pos-

* Jefferson to Monroe. "Should they yield the election, I have reason to expect in the outset the greatest difficulties as to nominations." Feb. 15, 1801.

sess their equal rights, which equal law must protect, and to violate would be oppression. Let us then, fellow-citizens, unite with one heart and one mind—let us restore to social intercourse that harmony and affection without which liberty and even life itself, are but dreary things." He denounced political intolerance as being, "as despotic as wicked, and capable of as bitter and bloody persecutions" as those which "religious intolerance had produced." "Every difference of opinion," he declared, "is not a difference of principle. We have called by different names brethren of the *same principle*—we are all Republicans: we are all Federalists."

After inviting the people "to pursue with courage and confidence their own federal and republican principles, their attachment to union and representative government," he stated what he deemed "to be the essential principles of the Government, and consequently those which ought to shape its administration."—"Equal and exact justice to all men"—"Peace, commerce, and honest friendship with all nations—entangling alliances with none. The support of the State Governments in all their rights." "The preservation of the General Government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad." "A jealous care of the right of Election by the people—absolute acquiescence in the will of the majority—a well-disciplined militia as the best reliance in peace and for the first moments of war, till regulars may relieve them—the supremacy of the Civil over the military authority—Economy in the public expenses, that labor may be lightly burdened;—the honest payment of our debts and sacred preservation of the Public faith;—encouragement of agriculture and of Commerce as its handmaid; the diffusion of information and arraignment of all abuses at

the bar of public reason—freedom of religion, freedom of the press, and freedom of person under the protection of the habeas corpus, and trial by Juries impartially selected."

His address concluded with a tribute to Washington, and with professions of his desire to retain good, to conciliate adverse opinions, and to support a Government, which he now declared to be "*in the full tide of successful experiment, and which has so far kept us free and firm.*"

Thus, on assuming the Executive Office, to attain which, he had woven such a web of intrigue, he became the open, unblushing panegyrist of the men he had calumniated, and of the policy he had so often and so much decried.

Various impressions were made by this speech, according to the situation of parties. By such of the Democrats, as were sincere in their distrust of the Federalists, it was regarded as a degrading lure for the support of men whom Jefferson had taught them to abhor. By those, who were eager for office, as menacing much delay, if not eventual disappointment to their venal hopes. By the great body of the Federalists, it was well received. Weary of contest, though surprised by, they were willing to confide in the assurances which, it appeared to them, he gratuitously and honestly gave of his conversion to the prominent maxims of their policy—Neutrality and the preservation of the Public Faith. Their more discerning leaders, while waiting for the development of his principles by his acts, felt themselves bound to give to him, if those maxims should be adhered to, an honest and a hearty support.

Unaware of the irresistible influence which the possession of high office, its patronage, and the divisions of

his opponents were soon to confer upon him; and thinking only of the perils with which his ambition had been recently environed, Jefferson had not resolved at this time upon a departure from these pledges.

"I and the people are one," was the ruling feeling during this his political honeymoon. That, in the moment of his warmest caresses, he wrote bitter things of those he regarded as rivals for their affection, what else was it but a proof of the depth and truth of his devotion? So frequent and so vehement were his protestations, the only question might be, were they sincere? but he who woos the people, soon learns, that while the wooing is continued, they are only won. A cold embrace is but a restraint. So Jefferson judged, and so he proceeded.

Two days after his inauguration, his billets deux began. "The storm through which we have passed, has been tremendous indeed. The tough sides of our Argousie have been thoroughly tried. Her strength has stood the waves into which she was steered *with a view to sink her*. We shall put her on her republican tack, and she will now show by the beauty of her motion, the skill of her builders. * * * I hope to see shortly a perfect consolidation, to effect which, nothing shall be spared on my part, short of an abandonment of the principles of our Revolution. * * * What a satisfaction have we in the contemplation of the benevolent effects of our efforts, compared with those of the leaders on the other side, who have *discountenanced all advances in science as dangerous innovations*, have endeavored to render philosophy and republicanism terms of *reproach*, to *persuade* us that *man cannot be governed but by the rod*, &c. I shall have the happiness of living and dying in the contrary hope."*

* Jefferson to John Dickinson. Jefferson's Works, iv. 365, ed. 1854.

Two days before his inauguration, Monroe wrote to to him thus—showing how his recall from France still rankled in his memory, fearing moderation, grasping office, pointing to revenge.—"When you came into the administration of this State, the firmness and decision which you showed in the case of Hamilton, (a British officer) *at a time when Washington suffered our people to perish in the jails and prisonships of New York by a pusillanimous and temporizing policy,* advanced your fame and *served the cause.*" He charges that the "Federal party ought to be watched."

"My Inaugural address," Jefferson replied, on the seventh of March, "will present the leading objects to be conciliation and adherence to sound principle. * * * To give time for a perfect consolidation seems prudent. * * * I believe, that deprivations of office, if made on the ground of political principles alone, would revolt our new converts, and give a body to leaders who now stand alone. Some, I know, must be made. They must be as few as possible, done gradually, and bottomed on some malversation or inherent disqualification. Where we shall draw the line between retaining *all* and *none,* is not yet settled, and will not be till we get our administration together; and perhaps even then we shall proceed '*a tatons*' *balancing our measures according to the impression we perceive them to make.*"*

To Monroe he could write freely. He understood him well, nor would he have him think that he would not "*serve the cause.*" To Priestley, a congenial, vain, half-philosophic sceptic, now returned to Europe, he addressed adapted words.† "What an effort, my dear Sir, of bigotry in politics and religion have we gone through! The

* Jefferson's Works, iv. 367, ed. 1854. † Ib., iv. 373, March 21.

barbarians really flattered themselves they would be able to bring back the times of Vandalism, when ignorance put every thing into the hands of power and priestcraft. All advances in science were proscribed, as innovations. They pretended to praise and encourage education, but it was to be the education of our ancestors. We were to look backwards, not forwards, for improvement; the President himself declaring, in one of his answers to addresses, that we were never to expect to go beyond them in real science. This was the real ground of all the attacks on you. Those who live by mystery and *charlatanerie*, fearing you would render them useless by simplifying the Christian *philosophy*—the most sublime and benevolent, but most perverted system that ever shone on man—endeavored to crush your well earned fame. But it was the Lilliputians upon Gulliver. Our countrymen have recovered from the alarm into which art and industry had thrown them; science and honesty are placed on their high ground; and you, my dear Sir, as their great apostle, are on its pinnacle."

On the same day, he wrote to the aged General Warren with the pathos of a hoary, patriot patriarch, who had watched at the bedside over his beloved country just recovering from dire disease. "I have seen with great grief yourself and so many other venerable patriots retired and weeping in silence over the rapid subversion of those principles for the attachment of which you had sacrificed the ease and comforts of life; but I rejoice, that you have lived to see us revindicate our rights, and regain manfully the ground from which fraud, not force, had for a moment driven us. The character which our fellow-citizens have displayed on this occasion gives us every thing to hope for the permanence of our Government. Its extent has saved us. While some parts were labor-

ing under the paroxysm of delusion, others retained their senses, and time was thus given to the affected parts to recover their health.*

Giles wrote as a political servitor, galled with his long-worn chains—heated with unequal strifes,—"In fact, it" (the Inaugural) "contains the only American language I ever heard from the Presidential chair." But he avows his "fear of moderation," and urges "a pretty general purgation of offices. * * * The only check on the Judiciary system, as it is now organized and filled, is the removal of its Executive officers indiscriminately. The Judges have been the most unblushing violators of Constitutional restrictions. To retain them in office would be to sanction the pollution of the very fountain of Justice." If he wished to be appointed one of its shining guardians, he was disappointed.

Jefferson was not yet prepared for a general decapitation. "That some ought to be removed," he answered, "and that all ought not, all mankind will agree. But where to draw the line, perhaps no two will agree. Consequently nothing like a general approbation on this subject can be looked for. * * * All appointments to *civil* offices during pleasure, made after the event of the election was certainly known to Mr. Adams, are considered nullities. 2. Officers, who have been guilty of official misconduct, are proper subjects of removal, but good men, only differing as to political principle, are not proper subjects of removal, except in the case of Attorneys and Marshals, which the courts, being federal and irremovable, he thought indispensably necessary as a shield to the republican part of our fellow-citizens." He "was averse to unnecessary severity against his recent friends." "It

* Jefferson's Works, iv. 375.

was a conviction that these did not differ from us in principle which induced me to define the principles which I deemed orthodox, and to urge a re-union on those principles; and I am induced to hope it has conciliated many. I do not speak of the desperadoes of the quondam faction in and out of Congress. These I consider as incurables, on whom all attentions would be lost, and therefore will not be wasted. *But my wish is, to keep their flock* from returning to them."*

Rush also tendered his gratulations, remarking, "our country was then so much under the influence of the *name* of Washington, the *plans* of Hamilton, and the *press* of Peter Porcupine, that I despaired of a resuscitation of its republican spirit." Jefferson replied the day after he had written to Giles. "I have been made very happy by learning that the sentiments expressed in my Inaugural address gave general satisfaction, and holds out a ground on which our fellow-citizens can once more unite. I am the more pleased, *because these sentiments have been long and radically mine*, and therefore will be pursued honestly and conscientiously."

"An obstacle," he feared, would "arise from appointments and disappointments as to office." "It is perfectly just, that the republicans should come in for the vacancies which may fall in. But the great stumbling-block will be removals." Repeating his purpose just avowed, to Giles, he observed,—"Some removals must be made for misconduct—these would be of Attorneys and Marshals." But he adds—*and it is a marked tribute to the Federal incumbents*—"Out of this line I see but *very few instances* where *past misconduct* has *been in a degree to call for notice.* Of the thousands of officers, therefore,

* Jefferson's Works, iv. 380. March 23, 1801.

in the United States, a very few individuals only, probably *not twenty*, will be removed, and these only for doing what they ought not to have done. I know that in stopping thus short in the career of removal, I shall give great offence to many of my friends. That torrent has been pressing me heavily, and will require all my force to bear up against, but my maxim is 'fiat justitia, ruat cœlum.'"

General Knox, confiding in the sincerity of his Inaugural, addressed to him an approving letter. Three days after he had written to Rush, Jefferson acknowledged it. "It is with the greatest satisfaction I learn from all quarters, that my Inaugural address is considered as holding out a ground for conciliation and union. * * * I am the more pleased with this, because the opinion therein stated as to the *real ground* of difference among us, (to wit: the measures rendered most expedient by *French enormities*) is that which I have long entertained. I was always satisfied that the great body of those called Federalists were real Republicans, as well as Federalists." Then hoping to play upon his recent disappointment as to rank in the General Staff, he added, "I know, indeed, there are monarchists among us. One character of these" (Adams had preferred Knox) "is in theory only, and perfectly acquiescent in our form of Government, as it is, and not entertaining a thought of destroying it merely on their theoretical opinions. A second class, *at the head of which is our quondam colleague*, (meaning Hamilton) are ardent for the introduction of monarchy, eager for armies, making more noise for a great naval establishment than *better* patriots, who wish it on a rational scale only, commensurate to our wants and our means. This last class ought to be tolerated, not trusted."*

* This appeal to Knox's supposed hostility towards Hamilton was as unjust as it was unbecoming. On learning Hamilton's death, Knox exclaimed—

To Samuel Adams, feeble with age, he wrote two days later—"In meditating the matter of the (Inaugural) Address, I often asked myself, 'Is this exactly in the spirit of the patriarch, Samuel Adams? Is it as he would express it? Will he approve of it?' I have felt a great deal for our country in the times we have seen. But individually, for no one as much as yourself. When I have been told, that you were avoided, insulted, frowned on, I could but ejaculate, 'Father, forgive them, for they know not what they do.' I confess I felt an indignation for you, which, for myself, I have been able under every trial to keep entirely passive. However, the storm is over, and we are in port. * * * I hope we shall once more see harmony restored among our citizens, and an entire oblivion of past feuds. * * * How much I lament that time has deprived me of your aid. It would have been a day of glory which should have called you to the *first office of the administration.* But give us your counsel, my friend, and give us your blessing."*

Nor was Gerry to be overlooked. The same mail that carried blandishments to Samuel Adams, bore an adroit missive to him, also a martyr. "Your part of the Union, though as absolutely republican as ours, had drunk deeper of the delusion, and is therefore slower in recovering from it. The ægis of government, and the temples of religion and of justice, have all been prostituted there to toll us back to the times when we burnt witches. But your people will rise again. They will awake, like Samson from his sleep, and carry away the gates and posts of

"My friend—My brother;" and a letter from Captain H. K. Thatcher, U. S. Navy, to the author states "that the bust of General Hamilton with that of Washington" stood conspicuously in General Knox's library, that he mourned over Hamilton's death even more than over that of Washington.

* March 27, 1801.

the city. You, my friend, are destined to rally them again under their former banner; and when called to the post exercise it with firmness, and with inflexible adherence to your own principles. The people will support you, notwithstanding the howlings of the ravenous crew from whose jaws they are escaping. It will be a great blessing to our country, if we can once more restore harmony and social love among its citizens." Jefferson knew Gerry too well to place him in high official trust—whose most sacred obligations he has been seen urging him to violate. He preferred to behold him arousing and quickening the *future* "Samson" of Massachusetts.

Intoxicated as he was with the recent possession of long coveted power, Jefferson found that even these were not all halcyon days. His pledge to the Federalists not to remove subordinates was indeed, as he called it, "an obstacle," where the malfeasors were so few—for the partners in a battle are not slow to claim, nor patient of the rewards of victory. So it was with Callender. His association with the State printer of Virginia, he regarded but as a place to bait. The day of feasting had arrived, and why should he not sit at the public table in shining jollity? He felt his title to be strong. He demanded the appointment of postmaster at Richmond. Not receiving it, he, on the twenty-seventh of April and the seventh of May, enforced his demand in terms of menace, most disturbing. Madison answered him, at Jefferson's instance, on the fifteenth, and for a time the avenging sword hung suspended over their heads. These two men now felt, in their fears of exposure, that virtue is the only true independence, and that the servant, in a task of baseness, not unfrequently becomes the master of his more base employers.

If Callender could not be publicly fostered, Thomas Paine, it was supposed, as of yore, might be of great ser-

vice with his pen. Having failed to obtain for him from Washington the place of postmaster-general, Jefferson invited him, in the first moments of his success, to revisit the United States in a national vessel. "I am in hopes," he wrote to him, "you will find us returned generally to sentiments worthy of former times. In these it will be your glory to have steadily labored and with as much effect as any man living. That you may long live to continue your useful labors, and to reap their reward in the thankfulness of nations, is my sincere prayer."

This letter to Paine, notorious for his blasphemous infidelity, is the only one of his present missives which concludes with a prayer. It acknowledges "papers" recently received from him, which, with a "pamphlet" were "published according to your permission, and under your own name." What the object of Jefferson's gratitude was, may be judged from Paine's recent writing.—Of Washington he dared to say, "The chief of the army became the patron of fraud." "As to you, sir," addressing this exemplar of public virtue, "treacherous in private friendship (for that you have been to me, and that in the day of danger), and a hypocrite in public life, the world will be puzzled to decide, whether you are an apostate or an impostor; whether you have abandoned good principles, or whether you ever had any." Of Adams and Jay he wrote—"These are the disguised *traitors* who call themselves Federalists." It will not be forgotten, that these gross calumniators, and favored objects of Jefferson's patronage were both degraded, scorned, expatriated foreigners.

If, as to appointments to office, Jefferson anticipated some embarrassment, in his conduct of the public affairs, he seems now to have apprehended none. A want of "confidence in his observance of the principles" of his

Inaugural Address, he wrote, "does not arise from the measures to be pursued—as to which I am in no fear of giving satisfaction." *

Nor would he permit any fears as to his constructions of the nature or powers of the Government. "The Constitution on which our Union rests shall be administered by me according to the safe and honest meaning, contemplated by the plain understanding of the people of the United States at the time of its adoption—*a meaning to be found in the explanations of those who advocated it*, not those who opposed it, and who opposed it merely, lest the constructions should be applied which they denounced as possible."†

As to constructions of the Constitution Jefferson well knew he had no cause of fear, for Madison was to be at hand ready to do his any bidding;—and as to the assurances of his Inaugural Address, though he put it forth as a "political creed," he ere long wrote to Monroe, "Indeed, it was, from the nature of the case, *all profession and promise.*"

But Jefferson was not without a strong hope, if not a stay. He knew well that the public man must govern or be governed, and that his feeling that "I and the people are one," was not in the sense of the autocrat, but of the democrat. His chosen path was to follow, not to lead. His clamor as to his opponents was, that they had governed too much, he resolved that the only clamor, if any should arise as to him, should be that he governed too little. The public officials he had indeed denounced, but he found "*not twenty*" who deserved removal. The public abuses he had also denounced, but who were the abusers, and what were the abuses to be corrected. His

* Jefferson's Works, iv. 382. † Ibid., iv. 387.

own confession is the fullest acknowledgment. He had avowed in his inaugural, that the Government when he assumed it was "in the full tide of successful experiment, and had so far kept us free and firm." And two days after his letter to Gerry, he wrote, "I am sensible how far I should fall short of effecting all the reformation which *reason* would *suggest*, and experience approve, were I free to do whatever I thought best; but when we reflect how difficult it is to move or inflect the great machine of society, how impossible to advance the notions of a whole people to *ideal* right, we see the wisdom of Solon's remark, that no more good must be attempted than the nation can bear, and that *all* will be chiefly, to reform the waste of public money, and thus drive away the vultures who prey upon it, and *improve some little on old routines*. Some new fences for securing constitutional rights may, with the aid of a good legislature, *perhaps* be attainable."*

It will soon appear, that no waste of public money had occurred; that no vultures were found to be driven away, that "old routines" were departed from only to be returned to, that not "a new fence" was attained. Even "a declaration of the principles of the Constitution in the nature of a Declaration of rights," which he had so much urged in eighty-eight, and had recently promised† as a necessity, was not again thought of, for the election was over.

What he really had in view—all he sought to attain is disclosed in a letter to Macon, a member of Congress. "Levees are done away with. The first communication to the next Congress will be, like all subsequent ones, by message, to which no answer will be expected." Thus,

* Jefferson to Jones. Works, iv. 392, ed. 1854.

† Jefferson to P. N. Nicholas. Jefferson's Works, iv. 328, April 7, 1800.

"the forms of the British Government" which "an Anglican, Monarchical, Aristocratical party had drawn over us," as he had written to Mazzei, were to be "done away," and the "Lilliputian cords entangling the nation" would be "snapped." "The diplomatic establishment in Europe," he proceeded, "will be reduced to three ministers. The compensations to Collectors depend on you and not on me. The army is undergoing a *chaste* reformation. The navy will be reduced to the legal establishment by the last of this month. Agencies in every department will be revised. We shall push you to the uttermost in economizing." "No printer, foreigner or revolutionary tory" was to be employed in the Post Office. Such was the sum of his Domestic policy, which he vauntingly called "a Revolution;" and in one sense it was "a Revolution," for he rolled the Government back by his own impotence to the impotence of "the good old venerable fabric," the Confederation, making "the President" in his own person, "a bad edition of a Polish King."*

Appealing to and cherishing the lowest motive of action, a selfish economy, his foreign policy was in ostentatious accordance. He had resolved, actuated by this ignoble motive, to disarm this nation of its power to maintain its rights, to promote its peace, to assert its honor; and, thus denuded, to expose it to the scoffs of the whole world. He wrote to Thomas Paine,—"Determined as we are to avoid, if possible, wasting the energies of our people in war and destruction, we shall avoid implicating ourselves with the powers of Europe, *even in support of principles which we mean to pursue.* They have so many other interests different from ours, that we must avoid being entangled in them. We believe, we can enforce these

* Infra, iv. 472. Jefferson to Adams, December 11, 1787.

principles, *as to ourselves*, by *peaceable means*, now that we are likely to have our public counsels detached from foreign views."

To practical minds Time brings its instructive lessons, but to these Jefferson would not listen, and, full of instruction as the past fifteen years had been to the United States, he seemed ready to carry into effect the policy he then avowed,—"Were I to indulge my own theory, I should wish them to practice neither commerce nor navigation, but to stand with respect to Europe, precisely on the footing of China."

If Jefferson preferred isolation, Europe did not; and a short time only elapsed, when he wrote to Monroe,—"There is considerable reason to believe that Spain cedes Louisiana to France." She had done so on the first of the previous month of October. "It is a policy," he observed, "very unwise in both, and *very ominous* to us."

To govern well is to govern honestly, daring, when necessary, to conflict with the passions and prejudices of a people; to prefer their real permanent to their apparent present interests, to require present sacrifices for future good; to cultivate in the National breast courage, faith, honor, pride, unselfishness, feelings without which man is lower than the beast, giving up his higher nature, and of which Government is but a sacred trust. Jefferson, on the contrary, thought it easier to quicken the current of National passion, and to leave the vessel of state to float on its surface, trusting to chance where it might strand. And where it did strand, not long after was seen.

His economies had more than one object. They would not only secure the masses, but as the officers of the Army and of the Navy held their commissions by a tenure he could not venture to disturb, to reduce these great branches of the public service, would, in his view, be to remove

a body of men, devoted to the policy, as to the memory of Washington—Men neither to be misled, nor bought, nor coerced into his views. And thus doing, well might he especially regard the cession of Louisiana to France as *ominous*. Its consequences, in all probability, would defeat all his narrow views, and expose his narrow administration. The contempt of foreign powers, seeing in him, or a timid, complying demagogue, or a visionary theorist, and contrasting the manly system of Washington's government with his pusillanimous counsels, was inevitable. They would as little regard the dignity and rights of the United States, as they did their interests. If the American people, corrupted by his cries for submission and for peace, held that dignity, those rights, those interests cheap? If their President did not dare, in such behalf to conflict with the corrupt, submissive opinions he had fostered, why should foreign, rival nations deem them, for a moment, deserving their regard?

The day after his inauguration, Jefferson proceeded to the formation of his Cabinet. As was to have been anticipated, Madison now received the reward of his apostacy from the Federalists, and of subserviency to his ruler, in the place of Secretary of State. That of the Treasury was destined and reserved for Gallatin, should circumstances permit. The Department of war, in the purpose of hostility to that arm of the public service, the army, he confided to Lieutenant Dearborn* of Massachusetts. Levi Lincoln, also of Massachusetts, who, as seen, had voted for him as President, was appointed Attorney General.

It was the settled policy of Jefferson that the power

* Jefferson to Lieutenant Dearborn, February 18, 1801. Jefferson's Works, iv. 356, ed. 1854.

of this government should be in the hands of Virginia, to which Gallatin would not prove an impediment, and, with this view, these other members of his Cabinet were selected—persons of no force of character, of no political weight.

On the twelfth of May, Jefferson wrote to Madison—"Mr. Lincoln has undertaken the duties of your office—*per interim*, and will continue until you come. Mr. Gallatin, *though unappointed*, has stayed till now to give us the benefit of his counsel. He cannot enter into office till my return, and he leaves us to-morrow. In the mean time, Dexter continues. Stoddart also has accommodated me by staying till I could provide a successor. This I find now to be impossible. R. R. Livingston first refused, then General Smith—next Langdon. I am now returning on General Smith, but with little confidence of success. If he will undertake six months, or even twelve months hence, I will appoint '(Tobias)' Lear. In the mean time he promised, if Langdon would take it for six months, he would in that time so dispose of his business as to come in. This makes me hope he will accept in that way. If he does not, *there is no remedy* but to appoint Lear permanently. He is equal to the office, if he possessed equally the confidence of the public." He felt that Lear's silence must be secured, and ere long he received the consulate at Algiers, in which obscure station public opinion would least be shocked.

If the language of the Inaugural Address excited dissatisfaction among the leading followers of Jefferson, his first acts were of a nature to gratify the mass. Hostility to the law for preventing sedition had been a great instrument in restoring his popularity. He now appealed to this feeling. The prosecution against Duane, the editor of the Aurora, indicted for a gross libel on the Senate,

was discontinued. A just sentence imposed on Callender, for his calumnies on the late President, was remitted. The Federalists were alarmed for the stability of the laws, overlooking the strong motives which impelled Jefferson to exhibit lenity to men with whom he had maintained a dangerous intimacy.

It has been mentioned, that Hamilton, just before the election of President by the House of Representatives, proceeded to attend a session of the Supreme Court at Albany. Believing from his correspondence that Burr would be chosen by the votes of the Federalists, he left New York full of forebodings for the country. His habitual remedy for ill-health was a journey on horseback. Recent indisposition had induced him to travel in this mode; and, at the end of each day's progress, he wrote to his wife. His letters chiefly refer to the improvements of a seat he had lately purchased, which he contemplated as the abode of his declining years; and, in commemoration of his family residence in Ayrshire, he called it "The Grange."

This delightful retreat was situate nine miles from the city of New York, on an elevated range, known as the "Heights of Haerlem," a scene familiar to his memory of the early events of the Revolution, and not far removed from the spot where he is related first to have attracted the eye of Washington.

The grounds were of singular beauty. The western entrance, on the right, was through a dense grove of various forest trees—the beech, the maple, the sycamore, the magnificent tulip, with which gracefully were intermingled the dogwood, the hemlock and other evergreens. Here all was wildness.

On the left, a copse shaded the approach, of which a part lined with moss-grown rocks was beautifully con-

trasted with the rich meadow, along whose margin a path was traced to a knoll, where a mansion was erected by him in simple taste, suited to the modest resources of its occupant. On the South a lawn spread before the view. To the East, a gradual descent of open ground was belted by a wood which rose above a ravine, traversed by a rivulet that murmuring fell through each successive cleft of rock—a lone wood—his fond resort, where his musings were only broken by the loud-echoed voice of cheerful industry.

The dwelling looked forth commandingly. On the Northwest, through the thick bordering foliage, glimpses were caught of the Hudson, as it rolled at the feet of the fluted palisades. The rest of the landscape was marked with deep seclusion, except a glorious prospect toward the rising sun, where the eye fell on an arm of the ocean. The river of Haerlem, gliding gently along the island of New York, until its waters joined this Sound, gave a tranquil air to this scene of various beauty,—the borders of the rich lowland, deeply indented by the winding stream,—the village spires—the distant uplands of Morrisania, whose outline was traced by the canvas of vessels, which, in frequent succession, alone reminded of the proximity of the metropolis.

As he proceeded on his way to the hospitable mansion of General Schuyler, Hamilton wrote to his wife: "The roads are too bad for you to venture in your carriage, if you can possibly avoid it. Don't forget to visit the Grange. From what I saw there it is very important the drains should be better regulated. Leave, in particular charge of Philip, what you cannot yourself accomplish."

At the next stage, he again wrote: "I arrived here, my beloved, about five this afternoon. I ought now to be much further advanced. But somehow 'Riddle'

sprained the ankle of one of his hind legs, which very much retarded my progress to-day. By care and indulgence he is much better this evening. I have travelled comfortably, and my health is better. Wife, children, and *hobby* are the only things upon which I have permitted my thoughts to run. As often as I write you may expect to hear something of the *latter*. Don't lose any opportunity which may offer of ploughing up the new garden spot, and let the waggon make a tour of the ground lately purchased. When it is too cold to go on with grubbing, our men may be employed in cutting and clearing away the underbrush in the grove and the other woods; only let the centre of the principal wood in the line of the different rocks remain rough and wild." In another letter, he says: "I am less and less pleased with the prospect of so long a separation from my beloved family, and you may depend shall shorten it as much as possible. 'Dumphy' had planted the tulip trees in a row along the outer fence of the garden in the road, and was collecting some hemlock trees to plant between them. I desired him to place these in a row along the inner fence. But, having attended to them in my route, I shall be glad, if white pines are not conveniently to be had, that besides those along the inner fence, there may be one hemlock between every two of the tulip trees along the outer fence."

On the twentieth of February, he reached Poughkeepsie. "I am in much better health," he wrote his wife, "than spirits. The Swiss malady grows upon me very fast. In other words, I am more and more homesick. This added to some other circumstances that do not give me pleasure at the present moment makes me rather heavy-hearted. But we must make the best of those ills that cannot be avoided. The occupation I shall have at

Albany will divert my mind from painful reflections; and a speedy return to my dear family will bring me a cure. Write me often, and receive every wish that is due to the best of women. Kiss my children for me. Adieu."

The legal reports show some of the cases in which he was engaged at Albany, chiefly involving great principles of commercial law. Among others a decision was now made in the Court of Errors, confirming an elaborate opinion given by him, denying the conclusiveness of sentences of foreign courts of admiralty. This important decision* became the admitted basis in a subsequent negotiation with France of claims of indemnity to a large amount for spoliations, under her imperial Government, on the American commerce.

The course to be pursued by the Federalists in the approaching election of governor was at this time considered. Jay had retired, and Van Rensselaer, then lieutenant-governor, the brother-in-law of Hamilton, a gentleman of great worth and large possessions, was nominated as his successor. Clinton was the candidate of the democratic party.

An address had been issued by the leading Federalists in conformity with the determination to wait the development of Jefferson's policy, and to give him, if justified by that policy, a faithful support. Its whole tenor carried with it the evidence of a disposition to be temperate and liberal; to avoid giving occasion for mutual recrimination. That of the Democratic party manifested a different feeling, for Democracy is not always generous amid its successes. "It arraigned the principles of the Federalists with extreme acrimony, and by an allusion to Great

* The leading argument was by De Witt Clinton, then a member of the Senate.

Britain, in the preposterous figure of a mantle, attributed to them a principle of action which every signer of it knew to have no existence," and which Hamilton declared "for its falsehood and malice merited indignation and disdain."

He was earnestly requested to frame a comment on this address, which answer was widely circulated throughout the State. "So violent an attack upon our principles," he wrote, "justifies and calls for an exhibition of those of our opponents." This paper, after alluding to the projects of disorganization, avowed since the recent election of Jefferson, "with the sanction of the most respectable names of his party," portrayed, in a tone of high and impassioned eloquence, the fearful condition of France, and asked to what end American citizens were called to direct their attention thither? The terrific picture it presented, its hideous despotism, its massacres in prisons and dungeons of men, women, and children, its "open profession of impiety," its prostration of commerce and of industry, "the afflicting spectacle of millions precipitated from plenty and comfort to beggary and misery," were boldly sketched, and the people were asked whether these were scenes they ought to admire?

"Perhaps it is the existing government of France, of which your admiration is solicited. Behold, a consul for ten years, elected, not *by the people*, but by a conservatory Senate, *self-created and self-continued* for life, a magistrate, who, to the plenitude of executive authority, adds the peculiar and vast prerogative of an exclusive right to originate every law of the republic. Behold a legislature, elected *not by the people*, but by the same conservative Senate, one branch for fourteen, the other for ten years; one branch with a right to debate the law proposed by the consul, but not to propose, but merely to assent or dissent,

leaving to the people nothing more than the phantom of representation, or the useless privilege of designating one *tenth* of their whole mass, as *candidates* indiscriminately for the offices of the state, according to the *option* of the conservatory Senate. Behold this magic lantern of republicanism; the odious form of real despotism; garnished and defended by the bayonets of more than five hundred thousand men in disciplined array."

The fantastic purpose of an extension of neutral rights by joining a league of the northern powers was exposed as inevitably leading to war. The charges against the Federalists were successively reviewed and confuted; and the hostility of the opponents to the Constitution, shewn by their desire to abolish the Senate, and their praises of an executive directory, was forcibly stated, as seen "in their wanton and distempered rage for calumny, not scrupling to brand even Washington as a *tyrant*, a *conspirator*, a *peculator*." "They enumerate, as the crimes of the Federalists," he charged, "the funding system, the national debt, the taxes which constitute the public revenue, the British treaty, the Federal city, the mint, a mausoleum, the sedition law, and a standing army; and they tell us, in plain terms, these are abuses no longer to be suffered."

Having stated, that several of these measures were not the measures of a party, Hamilton took a brief view of the others.

"The Funding System," he said, "had been opposed, yet it was the act of both parties. The chief points of difference, had been the Discrimination and Assumption. Its effects had been an extension of commerce and manufactures, the rapid growth of cities and towns, the consequent prosperity of agriculture, and the advancement of the farming interest,—all effected by giving life to a capi-

tal in the public obligations, before dead." As to the Public debt, the Federalists had not created the great mass of it. They had provided for its interest and the extinguishment of the principal.

"No man can impute that to them as a crime, who is not ready to avow the fraudulent and base doctrine, that it is wiser and better to cheat than to pay the creditors of a nation." Its extinguishment had been retarded by an Indian war, by two insurrections fomented by the opposition, by the hostilities of a foreign power "encouraged by the undissembled sympathies of the same opposition, which obliged the government to arm for defence and security." The taxes were unavoidable, and as to the direct tax, "Madison, second in the confidence" of that opposition, "was the proposer" of it, a tax, as to which it was a principle of the Federalists, that it never should be resorted to, but in time of war, or hostility with a foreign power.

The beneficial effects of the British treaty were shown. As to the Sedition law, "The most essential object of this act was to declare the courts of the United States competent to the cognizance of those slanders against the principal officers and departments of the Federal Government, which, at common law, are cognizable as libels; with the liberal and important mitigation of allowing the truth of an accusation to be given in evidence in exoneration of the accuser. What do you see in this to merit the execrations which have been bestowed on the measure?"

The standing army consisted of six regiments, which, if abolished, would "be productive only of repentance, and a return to a plan, injudiciously renounced." The Inaugural Address was next referred to. "It characterizes our present Government as a Republican Government in

the full tide of successful experiment. Success in the experiment of a Government is success in the practice of it, and this is but another phrase for an Administration, in the main, wise and good." "This speech," Hamilton remarked, "is an open and solemn protest against the principles and opinions of our opponents, from a quarter which as yet they dare not arraign. We view it as virtually a candid retraction of past misapprehensions, and a pledge to the community that the new President will not lend himself to dangerous innovations, but in essential points will tread in the steps of his predecessors. Adhering to the professions he has made, it will not be long before the body of the Anti-federalists will raise their croaking and ill-omened voices against him. But, in the talents, the patriotism, and the firmness of the Federalists, he will find more than an equivalent for all that he shall lose."

The people were then urged to consult their *experience*. "In vain are you told, that you owe your prosperity to your own industry, and to the blessings of Providence. To the latter, doubtless, you are primarily indebted. You owe to it, among other benefits, the Constitution you enjoy, and the wise administration of it by virtuous men, as its instruments. You are likewise indebted to your own industry. But has not your industry found aliment and excitement in the salutary operation of your Government, in the preservation of order at home, in the cultivation of peace abroad, in the invigoration of confidence in pecuniary dealings, in the increased energies of credit and commerce, in the extension of enterprize, ever incident to a good Government well administered? Remember what your situation was immediately before the establishment of the present Constitution. Were you then deficient in industry more than now? If not, why were

you not equally prosperous? Your industry had not the vivifying influences of an efficient and well-conducted Government."

"If, happily, the possession of the power of our once detested Government shall be a talisman to work the conversion of all its enemies, we shall be ready to rejoice that good has come out of evil. But we dare not indulge too far this pleasing hope. We know, that the adverse party has its Dantons and its Robespierres, as well as its Brissots and its Rolands; and we look forward to the time when the sects of the former will endeavor to confound the latter and their adherents together with the Federalists in promiscuous ruin." "We believe it to be true, that the contest between us is indeed a war of principles,—a war between Tyranny and Liberty, but not between Monarchy and Republicanism. It is a contest between the tyranny of Jacobinism, which confounds and levels every thing, and the mild reign of rational liberty, which rests on the basis of an efficient and well-balanced Government, and, through the medium of stable laws, shelters and protects the life, the reputation, the prosperity, the civil and religious rights of every member of the community."

By this Address and Reply, the merits of the respective opposing parties may be measured. In derogation of the claim of the Federalists to superior wisdom and integrity in the conduct of the public affairs, the recent Democratic success proved nothing. It has been already shown, that the Federalists, as advocates of the Constitution and founders of the Government, were from the beginning in a minority. That they maintained themselves in power, the short time they were in the ascendant, but long enough to establish Hamilton's system on a basis his opponents have only departed from to return to, is solely to be as-

cribed to the necessities of this country, to the intrinsic merits and fitness of their measures, to the unquestionable intellectual superiority, firmness, and patriotism of their leaders, to the popularity of the officers of the army of the Revolution, among whom few were not Federalists, and chiefly to that of Washington, his character and influence.

But the very measures to which this nation now looks back with pride, were of a nature to provoke unpopularity among the more numerous portion of a people, unused to government, hostile to acts of even necessary vigor or restraint, to the expenditures requisite to the formation of new establishments, to the taxation those expenditures compelled. Small as those expenditures and moderate as those taxes were, they were unavoidably progressive amidst opposition and denunciation; and though themselves, to a considerable degree, productive of an unexampled prosperity, were regarded with growing jealousy and apprehension by men grown up in the midst of anarchy, with excited passions, unrestrained either by the tempering influences of education or habits of obedience.

The denser and more instructed population of religious, sober, practical New England, creditors of the nation, and dependent on commerce and navigation, would necessarily be, for a time, on the side of the men whose first maxim it was to serve the ends of Justice; and, in order to this, to promote industry and to maintain the laws. Of the Middle States, in New York the same interests governed for a period, but, as its interior population increased, the Democratic force increased with it; and at the first breach in the ranks of Federalism, the party of Clinton, the opponents of the Constitution, reinforced by most of the Livingstons, and quickened in their opposition by the activity and arts of Burr, regained their ascen-

dency. New Jersey and Delaware, small States, the earliest to approve the Constitution, still preferred its eminent supporters. Pennsylvania, with a large, untaught, foreign population and its recent internal local strifes, the scene of two insurrections, would naturally oppose the suppressers and sustain the approvers of them, kept in motion by the untiring, disappointed, fierce ambition of McKean. Maryland would be divided between opposite, proximate affinities, while Virginia, unscrupulously aiming to grasp the Government of the Union, only required the concurrence of South Carolina to carry in her train all the non-navigating States; and South Carolina, insulted by Adams in the persons of the Pinckneys, turned away from him with unconcealed, ineffable disgust. The electoral votes of the several States in the recent election, were the exponents of these several influences. But greater than all other causes of defeat was the defection of Adams from the Federal party. It was the defection of a chief in the hour of battle, spreading distrust and dismay throughout every rank, which no persuasion could quiet, no monitions influence, no reasoning satisfy. Superadded to all of these many causes of defeat was the conduct of the Federalists who supported Burr. "I am persuaded," Jefferson justly remarked, "that weeks of ill-judged conduct here has strengthened us more than years of prudent and conciliatory administration could have done."* Nor can be omitted the strong passions of hate towards England, and of gratitude to France, artfully played upon to excite a discordant people, much moved by the wild theories and disorganizing opinions to which the struggles of Jacobinism in that unhappy country had given rise, and uneasy in the very aggregation that made them one nation.

* Jefferson to Lomax. Works, iv. 361, ed. 1854.

On his return to New York, Hamilton engaged actively in the election. The tenth of April he attended a preliminary meeting of the Federalists. Here he gave a general review of the state of the country since the Revolution, examined the conduct of the two parties, showed that it was to the Federal party exclusively it was indebted for its unexampled prosperity; and that its measures had met with an undistinguishing opposition by its adversaries. He dwelt upon the advantages of neutrality, and warned the merchants against a blind confidence in their present prosperity—that the spirit of Jacobinism was only held in check by one man, and if the knife of the assassin could reach the life of Buonaparte, the monster would rage again with increased violence and ferocity; that it was highly important, that Federalism should still discover to her enemies an energetic and imposing character; that New York should be able to harmonize with New England; for, although he was disposed to hope the best from the administration of Jefferson, yet it was desirable to present such a phalanx as might enable them to support the Chief Magistrate, if right, and sufficient to deter him, if he appeared disposed to err. This animated speech, in which the picture he drew of Jacobinism extorted a burst of astonishment, was extolled in terms of the highest commendation,* and widely extended Hamilton's reputation as an orator.

Much as the hopes of many of the Federalists as to the result of the election were roused, they were disappointed. Clinton was chosen Governor by a large ma-

* A contemporaneous Gazette remarks: "It was impossible to follow him in detail. It was the energy of Demosthenes, the ardor of Chatham, the overpowering rapidity of Fox, the logic of Pitt, the classical imagery of Burke. It was worthy of Hamilton."

jority, though after an exposition of his former official conduct deeply injurious to his reputation.

Powers and qualities, so rare as Hamilton's, could not fail to command the largest professional success. In most of the causes involving great principles and important interests, the strife was who should secure his services first; for it was believed, and believed with much truth, that he almost swayed the courts by his learning and his logic. He labored intensely, and, withdrawn for a time from politics, sought and found relief from the painful reflections which the growing delusion of the country forced upon him, in the duties of religion, in the circle of domestic joys, and in the embellishment of his rural retreat.

But he was now doomed to feel the most afflicting dispensation which Providence had yet awarded to him. His family consisted of seven children. Of these two were daughters. The eldest child was a son, on whom his hopes rested with a confidence that would not have been disappointed. Distinguished for genius and elevated feeling from his earliest years, this youth had recently graduated at Columbia College. So satisfied was his father with the display of talent in an oration delivered by him at the end of his academic career, that he remarked: "I could not have been contented to have been surpassed by any other than my son;" and never was he more delighted than with the gratulations which poured in upon him on this occasion. This son was now in his nineteenth year, and Hamilton was looking with anxiety to the period when he could place him by his side at the bar.

The feelings of Philip had been deeply wounded by the incessant calumnies directed against his father. A person, who had nearly reached the maturity of life, and

who had been recently made use of in a gross abuse of the elective franchise, was selected by the Democratic party to address them in an oration on the fourth of July, commemorative of the Declaration of Independence. Its violence gave it notoriety, and extracts from it were some time after published with approbation. One of these charged the Federalists with having "under the pretended apprehension of a foreign Invasion created a military establishment, in order to suppress the opposition by fear." This charge was regarded as being immediately levelled at General Hamilton. On the evening of the twentieth of November, his son in company with a friend entered a box in the theatre, where this person was, and pointedly ridiculed this oration. From their position it was believed, that these observations were intended for the ear of the speaker. He left his seat, and calling young Hamilton into the lobby, seized him by the collar and applied an opprobrious epithet to both. An explanation was demanded and refused, with an intimation from the author of the speech "that he should expect to hear from them, and if not, should treat them as disgraced persons." They assured him he would not be disappointed. Young Hamilton's friends considered the retaliation of so violent a nature, as to render it impossible not to take further notice of it; but, as the first offence was given by him, advised, that the first step to be taken should be such, as to leave an opening for accommodation, and that a message should be sent requiring an explanation. A challenge had, in the mean time, been delivered on behalf of Hamilton's elder associate; and a meeting took place, which, after an exchange of four shots, terminated without injury to either of the parties.

The friend of Hamilton, learning this result, waited on the confidant of his antagonist, and used every effort

to effect an honorable accommodation, a course which he thought due to his extreme youth, and which would excuse his antagonist from pursuing the punctilious part he might deem necessary towards one of riper age—a course which the recent duel enabled him to take without any imputation on his honor, and dictated also by the consideration that the origin of the controversy afforded strong additional motives for moderation. The attempt was made—the overture rejected—and the offence reiterated. Under these circumstances, young Hamilton sent a challenge which was accepted; but reflecting that, in the provocation offered by himself he was to blame; "averse in principle to the shedding of blood in private combat, anxious to repair his original fault as far as he was able without dishonor, and to stand acquitted in his own mind, he determined to reserve his fire, receive that of his antagonist, and then discharge his pistol in the air." This determination was communicated by him to his friend, "with instructions to avow the motive of his forbearance after he should have thrown away his fire, and to submit to his antagonist to decide upon his further proceedings, with the intention thus to end the controversy, should a suitable reparation be made to him for the violent effects of his resentment."

General Hamilton, on learning that his son had gone to the place of meeting, hastened to see his family physician, in order to request him to be in readiness in case his attendance should be required, but was so much overcome by his anxiety that he fainted and remained some time unable to proceed on his way. The first fire took effect, and young Hamilton fell mortally wounded. He lingered nearly twenty hours in excruciating pain, seeming chiefly anxious to conceal from his relatives and friends the suffering he endured. Not a whisper of reproach

towards his adversary, nor an expression of regret for his own early doom, escaped his lips. Much earnest conversation passed in an undertone between his father and himself on religious topics, from which the dying sufferer seemed to derive much consolation, while a radiance spread over Hamilton's face at the assured conviction of his son's resignation and his faith.

It is due to his memory to state that the witnesses to this fatal scene bore testimony to the display of a steady resolution which evinced the most deliberate courage; that, throughout the progress of this affair subsequent to the first error, his conduct was remarkably temperate; that his manner on the ground was calm and composed; and while lying in the arms of his friend, in all the torture of his severe wound, that he kindly urged the second of his adversary to withdraw, forgetting his own situation in his interest for the safety of others.

Could sympathy have ministered relief in such a calamity, Hamilton had much to assuage his grief. Letters of condolence were addressed to him by valued friends in America and Europe. The intrepid, noble, General Charles Cotesworth Pinckney wrote, "I am much afflicted at the event, and most sincerely condole with you on a misfortune which only religion and time can alleviate. It is, however, a consolation to reflect, (if so great a loss can admit of any immediate consolation,) that on the fatal field there was a heroism and generosity displayed in the conduct of your son which manifests his honor and worth, and excites, amidst the sorrow which must attend his death, an elevation of sentiment which gives a dignity to grief. Sacred be your sorrows. The tears of friendship will flow with your own, and happy shall I be to hear that you have regained the confidence so essential to your happiness and so anxiously desired by all your friends.

With unalterable and affectionate esteem I ever am your sincere friend." To another friend, who related one incident of his youthful benevolence and worth, Hamilton replied, "I felt all the weight of the obligation which I owed to you and to your amiable family for the tender concern they manifested in an event, beyond comparison, the most afflictive of my life. But I was obliged to wait for a moment of greater calm to express my sense of the kindness. My loss is indeed great. The brightest, as well as the eldest, hope of my family has been taken from me. You estimated him rightly. He was truly a fine youth. But why should I repine? It was the will of heaven. He is now out of the reach of the seductions and calamities of a world, full of folly, full of vice, full of danger, of least value in proportion as it is best known. I firmly trust also, that he has safely reached the haven of eternal repose and felicity. You will easily conceive that every memorial of the goodness of his heart must be precious to me. You allude to one recorded in a letter to your son. If no special reasons forbid it, I should be very glad to have a copy of that letter. Our wishes for your happiness will be unceasing."

These soothings were most kind, but they were only soothings. What can repair the loss of a son so suddenly and so sadly withdrawn, though it be to heaven? The sorrows even of the great, arrest attention but for the moment, and are forgotten. The pageant of life moved on, and the nation turned from the sad spectacle of a hero bending in agony over his youthful, dying son, the martyr of filial piety, and victim of political intolerance, to those strange events which marked a new era in its history.

It has been mentioned that in New York, the Democratic party had recently triumphed. Similar success had attended its efforts in Rhode Island, the latest to

adopt the Constitution, the first to come under the yoke of its adversaries after their accession to power. "We have," wrote Jefferson, "considerable hopes of republican senators from South Carolina, Maryland and Delaware, and some as to Vermont. In any event, we are secure of a majority in the Senate, and consequently that there will be a concert of action between the Legislature and Executive. The removal of excrescences from the Judiciary is the universal demand."*

Relieved from the fear of a check by the Senate on the exertion of his patronage, Jefferson now proceeded to execute the purposes from which this fear had alone restrained him. His opponents must be humbled, his partisans rewarded. That prosecutions and punishments might be exclusively in his hands, he removed the attorneys and marshals of the United States, replacing them with the most zealous of his followers. Edward Livingston and Dallas had the strongest claims, and Livingston, as stated, was appointed District Attorney of New York, while Dallas, whose services in the days of Genet could not be forgotten, received the same office in Pennsylvania, both also favored objects of State patronage. Aquila Giles, Marshal of the District of New York, an officer of the Revolution, regardless of his poverty, was removed; and Miller, likewise a soldier of merit, and of distinguished firmness, was displaced as Supervisor of the Revenue in the State of Pennsylvania.

Jefferson had vauntingly presented himself to the world, as being the most liberal of liberal statesmen. Assured of his predominance he now showed no reluctance to become an Inquisitor. "We are proceeding gradually," he wrote to his Attorney General, Lincoln,

* Jefferson to Gideon Granger. Jefferson's Works, iv. 407. Aug. 26, 1801.

"in the regeneration of affairs and introducing Republicans to some share in them. I do not know, that it will be pushed farther than was settled before you went away, *except as to Essex* men," the friends of Ames and Cabot. "I must ask you *to make out a list of those in office* in yours and the neighboring States, and to furnish me with it."* But while thus ferreting out his opponents, he could not pass by a most important influential friend. To prefer Duane, the Editor of the Aurora, to a place of importance and of value, would perhaps be too direct and public an act of recompense for such service as he had rendered. He was quietly rewarded by a contract for the public printing, and for the supply of stationery to the Government, a precedent held in reverence and sacredly followed by the party of which he was one of the founders.

The Treasury Department was still vacant. Jefferson had not ventured to submit to the approval of the Senate the person he had in view, and it adjourned without any nomination to that office having been made. Gallatin, as stated, was destined by him to this important trust, yet he hesitated to meet public opinion. To prepare the way for this appointment, the official Press, recently established at Washington, was busy in commendation of him. His services in the legislature of Pennsylvania were applauded. He had there, it urged, conducted the impeachment of its Controller with ability; he had been instrumental in establishing the bank of Pennsylvania; and in its Senate he had obtained the reversal of an act of great importance, passed from misinformation. Merits, such as these, it was hoped would relieve the doubts of a much forgiving people; and after the lapse of more than two months it was announced that Albert Gallatin had been

* Jefferson's Works, iv. 399, ed. 1854. July 11, 1801.

elevated to the Treasury Department. The Cabinet was filled by the appointment of Robert Smith (who it is stated had been detached from Burr, and had voted for Jefferson, as President,) Secretary of the Navy. Upon Charles Pinckney was conferred the Embassy to Spain, and after some time Gideon Granger was commissioned as Postmaster General, a delay which could only be ascribed to the wide and deep-rooted popularity of his predecessor.

One of the great themes of popular clamor had been the extravagance of the Federal Administration. Rigid economy—a strict accountability, are seen to have been the promised benefits of a change. The legations to the Hague and to Lisbon had been declared wholly unnecessary. The former had been highly useful in promoting the loans which so much aided the resuscitation of American Credit. It was an act of courtesy due to Holland for her early services to this country. It had also been the instrument of the recent reconciliation with France, yet it was discontinued. Lisbon was the nearest point at which the United States could approach the Barbary Powers, and whence it could watch over the growing trade of the Mediterranean. Yet, on the eve of a war with those powers, this Embassy was vacated. Its incumbent, William Smith, a leading member of the Federal Party, was especially confided in by Hamilton, and obnoxious to Jefferson. The dispatches of this officer informed the Government, that Tripoli refused the mediation of Algiers, was determined on war, and that the Dey of Algiers manifested unfriendly dispositions. A few days after these Missions were vacated, it was announced, that a Squadron had been ordered to the Mediterranean for the purpose of affording protection as convoys—an employment of the naval force which had been violently opposed during

the recent plunderings of France. Perseveringly hostile as his party had been to the establishment of a Navy,* Jefferson now declared—"The day is within my time as well as yours, when we may say by what laws other nations shall treat us on the Seas, and we will say it. In the mean time we wish to let every treaty drop off without renewal."† Thus, imitating the Corsairs he was now preparing to oppose, he welcomed the coming day when treaties were to cease, and superior force was to determine our Barbarian relations with the other members of the great family of Nations.

Thus far the current had been in favor of his administration. The Federalists had inculcated from their official seats in the State Governments the duty of supporting it as the constituted authority of the nation, and the opposition was silent. But a spirit of intolerance began to be exhibited, which foreshadowed the indiscriminate persecutions of political opinion which policy alone had deferred. A person had been appointed by Adams to fill the vacant place of Collector of the Port of New Haven. To his qualifications no objection could be raised. He was removed, and a successor, almost an octogenarian, substituted. This appointment was in fact a reward to the partizan zeal of a son, recently rendered conspicuous by an extravagant panegyric on Jefferson,‡ and a profane diatribe on the Federalists. The merchants of that port remonstrated against the selection of a person so infirm that he could with difficulty write his name, and could not adjust an account, for the purpose of rewarding a son

* Jefferson's Works, iii. 484.

† "We are running Navigation mad, Commerce mad, and *Navy mad*, which is *worst of all*." Jefferson's Works, iv. 311.

‡ An oration "On the extent and power of Political delusion," by Abraham Bishop.

"universally condemned," in direct violation of the recent pledges of the Inaugural address.

Jefferson seized this opportunity of removing the dissatisfaction which his intimations of a desire "to restore harmony to social intercourse" had engendered among his partizans. He declared, heedless of the truth, that "the previous administrations had excluded from office every shade of opinion which was not theirs, and lamented that unessential differences of opinion should have been deemed sufficient to interdict half the society from the right and the blessings of self-government." "That he should correct the procedure—that done, would return with joy to that state of things when the only questions concerning a candidate shall be—'Is he honest? Is he capable? Is he faithful to the Constitution?'"

The act and the doctrines avowed in its defence were of a nature to command attention. It was the act, before unheard of in this country, of *creating* a *vacancy* for the purpose of rewarding a political adherent, not the exercise of the necessary and salutary power of removal from office for official misconduct. It was the first of the many unconstitutional removals, without the concurrence of the Senate, which have degraded the dignity of office, and spread venality throughout the land. It was doing that, for which the chief member of his Cabinet, Madison, had early declared, a President would "be impeachable as an act of maladministration." It was, as he had publicly stated, the displacing a worthy man "that he might fill the place with an unworthy creature of his own." "Such abuse of power," he had formerly exclaimed, "exceeds my conception. If any thing takes place in the ordinary course of business of this kind, my imagination cannot extend to it, on any rational principle."

The doctrine employed in the defence of this removal

and appointment was, that Executive patronage was party property to be used for party purposes; that an Elective Government was not a form in which public opinion could most freely exert itself, but a field of battle—that success in an election was a conquest. It was the avowal of a doctrine, which, carried into practice, has produced a most corrupting tyranny, and will, if continued, transform this Representative Republic into an Elective despotism.

In his recent reply, Jefferson had designated the contending views of the two parties as "unessential differences of opinion." If so, the Federalists could only view the hostility of their opponents as a struggle for power and office—a struggle which, if successful, must result in indiscriminate proscription, and in those conflicts of popular faction, which Hamilton had warned them were in elective republics of large extent "the only avenues to tyranny and usurpation."

His correspondents bewailed the dangers by which the peace of the country was menaced, and mourned the intolerance which waved the torch of discord over every remote and sequestered village of the land.* Reunion of the scattered party was indicated by them as the only means of checking the violence which would not be intreated.

At the same time events were all coöperating to give ease and triumph to their adversaries. The great obstacles to the organization of a new Government had been overcome; and, during the six years of Hamilton's official life, all the leading principles of it had been fully examined, and, as was hoped, had been finally settled. The population had doubled. Every department of industry was prospering. The currency was uniform, and abun-

* "Toleration," Bossuet says, "is not a mark of the *true church*."

dant, without excess. The fiscal measures of the former administrations were providing ample revenue and large resources for the extinguishment of the Public debt. The commerce of the country was safe under the protection of the national marine they had established, now again gone forth to gather new trophies.* The recent negotiations in London, conducted with ability, had been successful.† The treaty with France, as stated, had been ratified by Buonaparte; and while Jefferson was advising his minister at Paris, that the principle of "free ships making free goods" even to the abolition of the law of contraband, was that which would "carry the wishes of the nation," the discussion of this disturbing question was postponed by the conclusion of a treaty of peace between Great Britain and France.

Democracy came into power, when the fields were full and ripe, to reap the protected luxuriant harvest of the manly, patient, persevering labors of Federalism.

* In 1791, American tonnage 502.
1801, " " 1,033,000.
In 1791, revenue nearly three and one-third millions of dollars.
1801, " " fourteen millions of dollars.
Interest paid on debt from 1790 to 1800 more than twenty-three and one-half millions. Extra indispensable expenses nearly six millions, exclusive of civil list, military establishment, Indian wars, negotiations, navy and navy-yards—in the whole exceeding fourteen millions of dollars, and many millions of acres purchased from the Indian tribes.

† Jefferson to Madison, Sept. 12, 1801. "The being in freedom to refuse the entrance in time of war to armed ships or prizes, to refuse or send off ministers and consuls in time of war, is a *most desirable situation in my judgment.*" Yet see his previous course in the Cabinet of Washington.

CHAPTER CLIX.

CONGRESS assembled on the seventh of December. In each branch there was a Democratic majority.* Macon of North Carolina, was chosen Speaker—and Beckley, Jefferson's favored instrument, was restored to the clerkship of the House. The President, stating as his motives —a regard to the convenience of the legislature, economy of time, and a discontinuance of the practice of immediate answers on subjects not fully before them, communicated to them a MESSAGE.

Having mentioned the general peace of Europe and the quiet "among our Indian neighbors," he stated, that Tripoli had declared war in form against the United States, and had enforced it by actual hostility; yet as there was not power, *without the sanction of Congress*, to capture and detain her cruizers with their crews, one of them, which was captured, had been *liberated!* The recent census was referred to as showing a duplication of numbers in little more than a period of twenty-two years; —and "the augmentation of the revenue" was such as induced him to recommend a repeal of all of the internal taxes. "This reduction of burthens" was founded on a contemplated reduction of expenditures—a system which,

* In the House—Democrats, 61; Federalists, 37.

it was represented, he had already commenced, and which it was indicated might be extended to that part of the judiciary system recently established, the utility of which he proposed to measure by the number of causes decided since its establishment. In connection with this economy, it was proposed "to multiply barriers against the dissipation of the public contributions by appropriating specific sums to every specific purpose, *susceptible of definition;* by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and circumscribing discretionary powers over money; and by bringing back to a single department all accountabilities for it." A reduction of the then inadequate military establishment was suggested, it being neither "needful nor safe, that a standing army should be kept up in time of peace," for the purpose of defence against invasion. The navy he would permit to remain on its existing establishment. "Agriculture, manufactures, commerce and navigation, the four pillars of our prosperity, thriving most when left free to individual enterprise," he observed, only required protection from casual embarrassments, but a relief of the carrying trade was deemed worthy of consideration. The mode of selecting juries and the protection of the Habeas Corpus were also indicated as meriting legislative care. The message concluded with a proposal to revise the laws of naturalization, so as to abolish ALL restrictions requiring a previous residence.

It has been seen, that Hamilton, with true magnanimity, rising above every personal feeling, had determined to give, and had publicly urged, a decided support to Jefferson's Administration, provided he fulfilled the pledges as to his policy he had made to the Federalists. But his recent conduct alarmed his adversaries, and this Message

left no doubt of his intention to violate those pledges. Each contemplated change being connected in this document with an imputation on the former Administrations, it was freely and widely canvassed. The most important review of it was in a series of numbers entitled "THE EXAMINATION," under the signature of "LUCIUS CRASSUS," from the pen of Hamilton. Having, through his friends in Congress, obtained from Jefferson the pledges he gave as to the course of his administration in respect to the great cardinal objects of the previous policy of the Government; and foreseeing in the abuse of the Constitution, by the removal and substitution of subordinate civil officers, the dangers which have since ensued, he the more felt the violation of those pledges and the duty and necessity of an early exposure of it.

These Essays embraced a searching analysis of the Message, a comprehensive and enlarged comparison of its policy with that of the past Administrations; an interpretation of some of the chief provisions in the Constitution, of which a violation was deprecated, and a scornful exposure of the gross inconsistency of its author. It has many bursts of high eloquence, much taunting sarcasm, stern reproof, and piercing irony. Hamilton declared, that the Message made or aimed at "making a most prodigal sacrifice of Constitutional energy, of sound principle, and of public interest to the popularity of one man." The scruple as to the *right* to seize and detain the armed vessel of an open and avowed foe, vanquished in battle, was pronounced "one of the most singular paradoxes, ever advanced by a man claiming the character of a statesman," that "*between* two nations there may exist a state of complete war on the one side,—of peace on the other." The requested "sanction of Congress" was shown to be unnecessary. The Constitution dele-

gating to it the power of declaring war when the nation is at peace, such a declaration, when a foreign nation had declared or made war, was wholly unnecessary. The doctrine of the Message also included the strange absurdity that, without a declaration of War, the public force may destroy the life, but may not restrain the liberty or seize the property of an enemy—the very absurdity under which the Tripolitan corsair was liberated—involving the consequence, that an enemy's force may be beaten but not captured, and leading to the result of his necessary total destruction or of his being permitted to repair and renew his hostilities. "Who," Hamilton asks, "could restrain the laugh of derision at positions so preposterous, were it not for the reflection that in the First Magistrate of our Country, they cast a blemish on our National Character? What will the world think of the fold when such is the shepherd?"

Aware of the advantages they had heretofore derived from being always the assailants, the leaders of the Democratic party resolved still to pursue this course. It was for this reason that Jefferson, abandoning the dignity belonging to his station, and which marked all the public acts of Washington, had made his Message the channel of censure upon his defeated adversaries. He indicated the matters which it was preconcerted were to become the objects of attack in the House.

On the second day of the Session, a call was made for a statement of the accounts of Colonel Pickering, the late Secretary of State. This, it has been seen, had been one of the subjects of much crimination during the canvass for President. Broad and unqualified as the charges against this valuable officer were, the mover of the Resolution, a leading Democrat, announced that he did not entertain the least suspicion that Pickering had ever ap-

propriated to his own use or defrauded the public of a single dollar; he believed him to be a man of irreproachable honesty and integrity. The motive of this inquiry was avowed to be, to ascertain whether he had not appropriated more money than he was allowed, and sometimes to purposes, though public purposes, otherwise than ordered. This procedure was in conformity with the suggestions in the Message of Jefferson as to specific appropriations.

Hamilton devoted one number of his "Examination" to this subject. He pronounced "the censure intended to be conveyed as unjust, as the conceptions which dictated it were crude and chimerical." "Nothing," he observed, "was more just and proper than the position that the Legislature ought to appropriate specific sums for specific purposes, but nothing more wild or of more inconvenient tendency than to attempt to appropriate a specific sum for each specific purpose, *susceptible* of definition, as the Message preposterously recommends. In providing for the transportation of an army, *oats* and *hay* are each susceptible of a definition and an estimate, and a precise sum may be appropriated for each separately; yet more than sufficient of one article may be obtained, and not enough of another. If the appropriation be distinct, and the fund may not be diverted from one of these objects to another, as the Message implies, the horses may starve, the movements of the army be arrested, even its supplies be kept back. If it should be said, this may be avoided by an appropriation for *forage*, by blending different things, this would be an abandonment of the principle of the Message, and would be only a partial cure for the mischiefs incident to that rigorous principle."

"Nothing more," he said, "can safely or reasonably be attempted, than to distribute the public expenses, into

a certain number of convenient subdivisions or departments; to require estimates of the items composing each head of expense; and, after due examination, to adapt the appropriations to the respective aggregates, applying a specific sum to the amount of each great subdivision. This, with even more detail than could be well executed, has been uniformly done under the past administrations of the present Government, from the very beginning of its proceedings. More will be found impracticable, and injurious, especially in seasons and situations when the public service demands activity and exertion."

Ere three years had elapsed Jefferson wrote: "Congress, aware that too minute a specification has its evil as well as a too general one, does not make the estimate a part of their law, but gives a sum in gross, trusting the Executors for that year and that sum only," as to the foreign intercourse. "So in other departments, as of war for instance, the estimate of the Secretary specifies all the items of clothing, subsistence, pay, &c., of the army, and Congress throws this into such masses as they think best * * * binding up the Executive only by the sum of the object generalized to a certain degree. The *minute details* of the estimate are thus dispensed with, in point of obligation; and the discretion of the officer is enlarged to the limits of the classification, which Congress thinks it best for the public interest to make.*

As to the other passage of the Message, urging an observance of the rule of "disallowing all applications of money varying from the appropriation in object or transcending it in amount," Hamilton's opponents were challenged to point out an instance in which it had been departed from, except upon the impracticable idea of

* Jefferson to Gallatin. Jeff.'s Works, iv. 529, ed. 1854.

minutely separating and distinguishing the items, which form the aggregate of some general head of expenditure. "Happily," he observed, "it is not material that the principle of distinct appropriations for separate objects should be carried through all the details. The essential ends of it are answered, if it be strictly pursued in the issuing of money from the Treasury; and if this Department be careful that the principal lines of discrimination are not transgressed." He asserted, that it was "an excess of theory, that, in no case, the actual money of one fund should be expended for the purpose of another, though each may be sufficient for its object, and there may be an appropriation for each object. It would often disable the Government with a full treasury from fulfilling its engagements, would require a triplication of the revenues, and would lock up from circulation large sums which might be of great importance to the activity of trade and industry." "Such," he exclaimed, "are the endless blessings to be expected from the notable schemes of a *philosophic projector*, strict to a fault, when relaxation is necessary; lax to a vice where strictness is essential."

As to "*bringing back* to a single department all accountabilities for money, there never," he averred, "had been a deviation from that system. The Department of the Treasury has uniformly preserved a vigilant superintendance over all accountabilities for public money." Undue restrictions on the heads of the other departments would injure the public service and engender strife in the Administration. "On one side stands collusion, on the other discord."

"The existing plan steered a middle and prudent course, neither fettering too much the heads of the other departments nor relinquishing too far the requisite con-

trol of the Treasury. Its opposite supposes all trust may be placed in One Department, none in the others. The extravagant jealousy of the overbearing influence of the Treasury Department, heretofore so conspicuous, has of a sudden given way to unlimited confidence. The intention seems to be to surround the brow of the immaculate successor, with the collected rays of legislative and executive favor. But vain will be the attempt to add lustre to the dim luminary of a benighted Administration." These views are well worthy attention, as evincing the large considerations which governed the author of the Administrative system of this Country.

Two leading objects had been presented in the Message: the abolition of the internal revenue prominently, as a broad appeal to public favor; an innovation on the judiciary system cautiously, as a matter requiring management. While the latter subject was brought before the Senate, the House was engaged with the former.

Thus the proceedings of Congress assumed in their outset and onset, in the conduct of each branch, a belligerent character toward the past Administrations.

A Report of the Commissioners of the Sinking Fund showed an existing balance in the Treasury, which, with the growing resources of that fund, was sufficient to reimburse all the instalments of the debt which the system of Hamilton, established in seventeen hundred and ninety-five, required should be paid within this year. The Report of Gallatin stated, that "the present revenues of the Union were sufficient to defray all the expenses, civil and military, to the extent authorized by existing laws; to meet all the engagements of the United States; and to discharge, within eight years, thirty-two millions of the principal, and within fifteen years and a half the WHOLE of the Public Debt."

A more ample attestation could not have been given to the wisdom of the measures so often and so vehemently opposed.*

Taking this view, Gallatin founded his calculations on the continuance of the present sources of revenue, cautioned against any increase of expense lest it should render an increase of taxes necessary or retard the payment of the debt; and hinted that a reduction of expenditure might permit a reduction of the present taxes, or be the means of accelerating the redemption of the debt. He obviously shrank from so bold a procedure as the abolition of the whole internal taxes, producing nearly an annual million. But Jefferson had decreed it.

Gallatin was not of a temper to question his fixed purposes; and at a later period, when every thing indicated impending hostilities, and when it was his first duty to recommend secure provisions of revenue, he presented to this nation a Report, to the effect, that, even were the United States engaged in a war with both England and France, the internal revenue could be dispensed with; and the Treasury would be adequately supplied by double duties and ample loans—double duties on a crippled, distressed commerce in many of the necessaries of life, in preference to taxes on luxuries; loans, without the means of offering to the lenders, the security in a certain reve-

* The effect of Hamilton's system, mutilated as it was by the repeal of the rapidly growing internal revenues, is seen in Jefferson's message to Congress of November, 1808. Having mentioned the resources and payments then falling due, he says: "These payments with those made in the six and a half years preceding will have extinguished $33,580,000 of the principal of the funded debt, being the *whole* which could be paid or purchased within the limits of the law and of our contracts; and the amount thus discharged will have liberated the revenue from about two millions of dollars of interest and added that sum to the disposable surplus." He even is embarrassed how to employ these surpluses!

nue, indispensable to any other than spendthrift borrowing. War came, and Gallatin retreated from his theories and his post of duty—from scenes of gross profusion and fiscal embarrassment—the severest comments on a policy which disregarded the injunctions of experience, of common sense and common honesty. On reading his first financial report, Hamilton remarked: "He has not taken a large view of the subject;" but his subsequent fallacies he would not anticipate.

It was, however, a merit, and the chief merit of Gallatin, that, late in life, he sought to give a conservative direction to public opinion, (bearing full, unhesitating testimony to the genius and wisdom of the founder of the American system of finance,) and thus seeking to atone for the errors of which the truth of history and great national interests have compelled the exposure.

The repeal of the Internal taxes having been decreed in the inner councils of Jefferson, to prepare the House for this measure, resolutions were offered to reduce the Military establishment and to repeal the recent Judiciary act, as means of reducing the expenditures.

That the Executive power of this Republic should be under the absolute rule of Virginia did not satisfy the Virginia Trio. Its Legislature must also admit no other rule, acknowledge no other influence. The "Old Dominion" must be felt and recognized by the whole Republic, as the controlling dominion. While Wilson Cary Nicholas, astute, pliant, thoroughly partizan, was seen the leader in the Senate, the management of the House was confided to John Randolph of Roanoke—a descendant of Pocahontas, and a cadet of a family, whose branches extended from the tide waters of that State far into the interior, on one of which branches, Jefferson, a miller's son, was proud, in right of his wife, to hang his heraldic shield.

To this Hotspur of the South, contentious, eccentric almost to insanity, insolent, overbearing, pert, vain-glorious, wilful, keen in debate, ready in retort, of sharpest irony, tantalizing, without knowledge, without experience, or tact, or wisdom, but of superior abilities, and a probity far above that of the men whose ends he now served, but from whom he soon broke; with those abilities ripened by use—and that probity only blinded by the vanity which sought distinction from office, he finally turned against them, and though unsuccessfully, left an impression by contrast, not to be effaced,—to him was intrusted by Jefferson, for a time his prompter with Gallatin as his guide, an assault upon leading measures of the defeated Federalists.

In his Message Jefferson declared,—"that in consideration of the tendency to multiply offices and dependencies, and to increase expence to the ultimate term of the burthen which the Citizens can bear, it behoves us to avail ourselves of every occasion for taking off the surcharge, that it may never be seen here, that, after leaving to labor *the smallest portion of its earnings* on which it can subsist, Government shall itself consume the residue of what it was instituted to guard." By the leading resolutions moved by Randolph, three great party objects were to be accomplished, for, with the advent of Jefferson to power, the Government had become a government, not of the nation and for the nation, but of party and for party. It appealed, indeed, constantly to the people, but to that portion of the people who envy and hate government, because they most require to be governed—to the quickened passions, not to the true great interests of the many. The three objects to be accomplished—were, as Jefferson* had written, "economy pushed to the utter-

* Jefferson to Macon—before quoted. Jeff. Works, iv. 397. May 14, 1801.

most." What in his view and in the view of over-burthened labor more popular?—"A chaste reformation of the army," whose officers selected by and devoted to Washington and to his principles, had been a hated barrier to Democratic ambition—the displacement of the Judges recently appointed by Adams—a last exertion of expiring power, naturally obnoxious to those who regarded the power of government as little else than that of providing and dispensing place, and saw in these Judges a body, surely earnest in the support of laws it might be convenient to violate—and whose tenure of office recognized the power of the Constitution—a power mistakingly supposed to be above the power of party.—Nor was the issue these resolutions presented without every promise of advantage to its presenters.—Would the Federalists, openly accused of extravagant improvidence, dare to oppose a provident economy? Would they, whose object had been charged to be the elevation of the Military above the Civil power, dare to espouse the maintaining of "a standing army in time of peace," which Jefferson had so recently declared in his message, he the constitutional Commander of that army, "neither needful nor safe"? Would they, without all the certain consequences of ignominious defeat, maintain in office—though by the Constitution beyond the reach of the Executive or the Legislature, "midnight Judges," lowering over the liberties of the people? Such were the hazards to be incurred by the opposers of these probing resolutions.

The reductions in the civil and military establishments, disapproved as they were by the Federalists, from a belief, that they were mere temporary baits for popularity, and inconsistent with the true interests of the country, justified a corresponding reduction of the Revenue. They

were willing to meet the Executive in the proposed purpose of relieving the laboring classes; and, with this view, Bayard urged a reduction of the duty on salt. He was followed by Rutledge in a proposal for a diminution of the duties on other necessaries of life—brown sugar, coffee, and bohea tea. These bore on the poorer population. The internal duties were chiefly taxes on luxuries—some of them pernicious luxuries. The Democratic party nevertheless refused to take off this "surcharge of burthens" on the poor.

To meet the objection of the expense attending the collection of the Internal Revenue, it was proposed to inquire in detail, whether some reductions of that expense might not be made. The Report of the Secretary of the Treasury was referred to. No other reply was given to the proposal. It was rejected by a silent vote on a motion for the previous question, soon to become the frequent instrument of legislative tyranny.

The restoration of peace, it was alleged, had affected the value of labor; ought not war duties on the necessaries of life to be repealed, if the real object was the relief of industry? The tax on stills had been denounced, yet since its imposition, distilleries had increased to the enormous number of two and twenty thousand, and the revenue from them had also increased. Was this an oppressive tax? Was it favorable to morality that their product should be increased and rendered cheaper? that the substitutes for it, the aliments of temperance, tea and coffee, should be burthened? Ought the charges on Commerce to be retained, and a tax on pleasure carriages, the luxury of the wealthy, to be abolished? If the tax on stills is odious—if the stamp tax is inconvenient, at least stop these. Suffer the four remaining items of internal

revenue* to remain, and repeal the additional duty on salt.

The majority of the House insisted, that the system of internal revenue was odious to the people, and at war with the genius of a free government—was unequal and expensive—that the Excise was injurious to the emigrant, who found in the distillation of spirits, a demand for the grain he needed, that it diminished the consumption, and was a tax on the article. It was also proposed, before the revenue was thus reduced, that compensation should be made to the sufferers by French spoliations, which France had refused, and who were not provided for in the recent treaty. This proposal was rejected. In the much opposed treaty with Great Britain, indemnity had been obtained.

After long delay, the bill repealing the system of Internal Revenue passed by a vote of sixty-one to twenty-four. It also passed the Senate, and became a law. Thus by party influence, acting on local interests and stimulating prejudices, that wise policy which Hamilton had acted upon of charging an excise on manufactures raised to maturity by protection, and thus returning to the Treasury an equivalent for the burthens such protection had imposed, was wholly departed from; and the important power of resorting to this great and ultimately indispensable national resource, was almost annulled. All the burthens of the nation have since been charged upon Commerce; and the National credit and resources and private property have been jeoparded by the fluctuating legislation of contending interests, espousing opposite theories, made to become mere party issues.

* Sales at auction. Licenses to retailers. Duties on refined sugars. The Carriage tax.

In his "Examination" of the Message Hamilton made several important reflections on this innovation. Jefferson founded this measure on "*a reasonable ground of confidence* that this revenue could be dispensed with." Hamilton declared, that by a prudent statesman,

"Nothing less than *experimental certainty* ought to have been relied on." There was no pressure of circumstances to precipitate it. The revenue from imports was problematical. It might be necessary to reduce the rates in order to a beneficial course of trade.—"Is it not desirable," he asked, "that Government should have it in its power to discharge the debt faster than may have been contemplated? The laws, providing for its extinguishment within a given time, had made an auxiliary provision, by declaring, that surpluses should become part of the Sinking Fund for the purpose of abridging that term. The auxiliary was thus renounced, and the provident care of the laws to accelerate its discharge was disappointed." "The tone is entirely changed. Those who projected and established the present system of public credit, and were charged with a design to perpetuate the debt, under the pretext that a public debt was a public blessing, are of a sudden discovered to have done too much for its speedy discharge, and its duration is to be prolonged by throwing away a part of the Fund destined for its prompt redemption." "The Message had condemned the policy of taxing industry to accumulate treasure for wars to happen we know not when, and which might not happen but for temptations offered by that treasure. The statutes had provided, by the appropriation of the surpluses, against such accumulation of treasure until the whole debt was extinguished. Thus, either there was an ignorance of financial arrangements or a deliberate design to delude the people." "Between the two, let the worshippers of the Idol make their option."

The immediate payment of the debt, he admitted, would be injurious, "by producing, in the first instance, a money plethora, inauspicious to the energies, and to the morality and industry of the nation. The quick efflux of money to pay that part in the hands of foreigners and to procure abroad the means of gratifying an increased extravagance, would, after some time, substitute a too great vacuity to a too great fulness—thus leaving us to struggle with the bad habits incident to the latter state, and with the embarrassments of a defective circulation. These considerations are applicable in a less degree to a very

rapid repayment by large instalments; but these were evils against which precautionary measures could have been adopted when experience had realized the danger. Till then, it was the highest wisdom to employ the funds already provided to exonerate the nation from debt, and to enable it with competent resources to meet future contingencies which may threaten its safety. But were there not other objects for the use of any surplus funds—the means of speedily creating a navy—arsenals—foundries—dockyards—magazines. To some the supplies might appear to be ample—to good judges there was hardly any one class of supplies that did not require augmentation. Dockyards would need fortifications to protect them, the cost of which would call for an expenditure forbidding the supposition of a superfluity of revenue." *

"The improvement of the communications between the different parts of our country is an object," Hamilton said, "well worthy of the national purse, and which would abundantly repay to labor the portion of its earnings. To provide roads and bridges is within the direct purview of the Constitution. In many parts of the country, especially in the western territory, in which the Atlantic States are equally interested, aqueducts and canals would also be fit subjects of pecuniary aid from the General Government. Adepts of the new school will observe, 'Industry will succeed and prosper in proportion as it is left to the exertions of individual enterprise.' As a general rule, this favorite dogma is true, but as an exclusive one it is false, and leads to error in the administration of public affairs. In matters of industry human enterprise ought to be left free, in the main, not fettered by too much regulation; but practical politicians know, that it may be beneficially stimulated by prudent aids, and encouragements on the part of the Government. This is proved by examples too tedious to be cited; examples which will be neglected only by indolent and temporizing rulers, who love to loll in the lap of epicurean ease, and seem to imagine that to govern well, is to amuse the wondering multitude with sagacious aphorisms and oracular sayings." "It is thus manifest, that,

* Jefferson to Kosciusko. Jefferson's Works, iii. 490; iv. 140. *This* he admits. He says, though it was his party which opposed the creation of national defences, "when he was called to the Government not a single seaport town was in a condition to repel a levy of contribution by a *single privateer* or *pirate*."

independent of the extinguishment of the debt, the revenues proposed to be yielded up would find ample and very useful employment for a variety of public purposes. Having surmounted the difficulties, which, from the opinions and habits of our citizens, obstruct in this, more than in any other country, every new provision of income, without a colorable pretence of a grievous or undue pressure, how foolish to resign the boon, perhaps in a short time to be compelled again to resort to it—to hazard a repetition of obstacles which gave birth to one insurrection, and may give birth to another!" "The internal revenue ought to be carefully preserved, as not exposed to the casualties incident to foreign intercourse—as reaching to descriptions of persons who are not proportionably affected by the Impost, and as thus tending to distribute the public burthens more equally." "It ought to be preserved, because, if revenue can really be spared, it is best to do it in such a manner as will conduce to the relief or advancement of our navigation and commerce. Rather let the tonnage duty on American vessels be abolished, and the duties be lessened on particular articles inconveniently charged. Let not the merchant be provoked to attempt to evade the duties by the sentiment, that his capital alone is to be clogged, and incumbered by the demands of the Treasury." "The menacing dangers from the Barbary States furnish a conclusive reason against parting with any portion of our income."

"But it is time to put the proposal to a severer test—that of right. *Can the proposed abolition take effect without impairing the public faith?*" "The Impost and the excise on distilled spirits have, from the commencement of the financial system, been repeatedly and positively pledged as a joint fund for the security of the public creditor, co-extensive in duration with the existence of any portion of the debt, with the single reserve, that the Government shall be at liberty to substitute other funds of *equal amount*. It is to be inferred, that, contemplating the possibility of a deficiency in *one*, the *other* was intended to serve as an auxiliary; and that the *coöperation* of the *two* should effectually guard the creditor against the fluctuations and casualties to which either singly might be exposed. The right to exchange either for an adequate substitute does not imply the right to exchange the *one* for the *other*. In the first case, there would be *two funds* aggregately of the same force or value—in the last, *only* one. From being double the security would become single.

"If one of the two funds should have acquired a stable increase

equal to the purpose of the pledge, it may be argued the other can be dispensed with, but neither the purity of the public faith, nor the safety of the creditor will endure that this should be on 'a reasonable ground of confidence'—but upon an ascertained result.

"The Excise act provided, after a permanent appropriation of its proceeds to the debt, that the surplus *shall* be applied to its reduction, unless required for public exigencies, and it is so appropriated by special 'Acts of Congress.' So as to the other surpluses, at the session succeeding any year of their accruing, they may be specially appropriated or reserved by law to other purposes. If this be not done, they go of course to the Sinking Fund."

"If," Hamilton observed, "unhappily this proposal shall receive the sanction of Congress, there will remain nothing, in principle, of our system of public credit. But it is devoutly to be hoped, that the delirium of party spirit will not so far transport the legislative representatives of the nation as to induce them to put their seal to a measure as motiveless, as precipitate—as impolitic—as faithless—as could have been dictated even by a deliberate hostility to the vital principles of our national credit."

"What are we to think of the ostentatious assurance in the Inaugural speech as to the preservation of PUBLIC FAITH? Is it possible, it could have been intended to conceal the insidious design of aiming a deadly blow at a system which was opposed in its origin, and has been calumniated in every stage of its progress?

"Alas, how deplorable will it be, should it ever become proverbial, that a President of the United States, like the weird sisters in Macbeth, '*keeps his promise to the ear, but breaks it to the sense.*'"

The effects of this innovation may be traced in the accumulated burthens, wide spread embarrassments, enfeebled credit and gross extortions under which the nation labored during the succeeding President, who was at last compelled to recommend a renewal of the internal revenue in aid of existing sources,* and each day of its history adds a reproving commentary.

Another suggestion of the Message was to abolish all

* Madison's Message, May 25, 1813.

restrictions on naturalization arising from previous residence.

The "Examination" quoted Jefferson's early opinions against the admission of foreigners to citizenship on any terms, as,

"Bringing with them principles hostile to republican governments, or, if these were thrown off, others of unbounded licentiousness"—that with such an exclusion our Government could be, "more homogeneous, more *peaceable*, more durable."

"It is certain," Hamilton remarked, "had the late election" (of President) "been decided entirely by *native* citizens, had foreign auxiliaries been rejected on both sides, the man who ostentatiously vaunts, that *the doors of public honor and confidence have been burst open to him* would not now have been at the head of the American nation."

"The impolicy," he observed, "of admitting foreigners to an immediate and unreserved participation in the right of suffrage or in the sovereignty of a Republic, is as much a received axiom as any thing in the science of politics, and is verified by the experience of all ages. Hardly any thing contributed more to the downfall of Rome than her precipitate communication of the privileges of citizenship to the inhabitants of Italy at large. How terribly was Syracuse scourged by perpetual seditions, when, after the overthrow of the tyrants, a great number of foreigners were admitted to the rights of citizenship!"

"Who wields the sceptre of France, and has erected a despotism on the ruins of her former government? A foreigner. Who rules the councils of our own ill-fated, unhappy country? And who stimulates persecution on the heads of its citizens for daring to exercise the right of suffrage? A FOREIGNER!"*

These observations were followed by a view of the influence upon the national sentiment, and upon the uniformity of its principles and habits produced by naturalized citizens. In the infancy of the country, he thought it was politic to give facility to naturalization, but the natural progress of population he deemed at that time

* Meaning—Gallatin.

sufficiently rapid for strength, security and settlement. He viewed the existing law as a temporary measure demanding revision.

As a safe expedient he proposed, as has previously been stated, that the right of naturalization "should be communicated in parts, but to admit foreigners as citizens the moment they put foot into our country," he said, "would be nothing less than to admit the Grecian horse into the citadel of our liberty and sovereignty."

After frequent discussion, a law was passed reducing the term of previous residence from fourteen to five years.

Preparatory to the repeal of the internal taxes, a resolution had been introduced for the reduction of the army. Previous to the expectation of a war with France, the actual military force of the United States did not exceed three thousand men. It now amounted to four thousand, a number not more than sufficient as the basis of a larger organization, should it be required, which was rendered probable by the uncertainty that hung over the destinies of Louisiana. Yet there were those even among the Federalists, those who thought the sacrifices to popularity could not be too many, too frequent, nor too great; and on the vote for the reduction of the Army, only twelve names appeared in the negative.

Soon after, Giles proposed to repeal the law establishing the Mint. A resolution was also offered to abolish the Navy department. After much debate, in which this revolutionizing spirit was deprecated, and a call for information asked and refused, a bill to abolish the Mint passed the House. It was rejected by the Senate; and successive acts were subsequently passed during this Administration to prolong its existence.

The resolution to abolish the department of the Navy

was laid on the table. A great part of the session having elapsed, a leading Federalist, with a view to test the sincerity of its mover,* called the attention of the House to this resolution. The violent and frequent declamations poured forth by Giles against this arm of the nation—his prophetic menaces of its dangers, his assertion that it was "inimical" to the liberties of the country—that naval power could never subsist in any nation without despotism, will be recollected. He nevertheless now strenuously opposed the consideration of this resolution; declared that "with respect to the Navy he was friendly to it as it now stood, or to an augmentation of it, to meet any particular emergency." But his opposition to the action upon this resolution was ineffectual. The House determined to take it up, and then its mover WITHDREW it!!

But, if fear of public opinion deterred any open attack upon this arm of the service, which had fought itself and was now fighting itself into the strongest public favor, a less palpable mode of reducing the Navy was resorted to, which appealed to the growing passion for economy and satisfied the jealousy cherished among the interior rural population (the strong ground of Democracy) against the Atlantic States. The navy numbered only thirteen vessels, as reduced by an act of the previous Congress; but, for the construction of six seventy-four-gun ships recommended by Hamilton, large masses of timber had been provided. It only required an adequate appropriation to complete these vessels. This Virginia resolved to frustrate. The paltry sum of two hundred and fifty thousand dollars was only granted. The construction of the line-of-battle ships was abandoned; and the timber, gathered at a large expense, was much of it wasted. The

* Leib of Pennsylvania, a special favorite of Jefferson.

daring and wanton assaults soon after made by Great Britain on this nation's honor and pride was the frequent commentary on this improvident parsimony. Jefferson saw in it the acme of his distempered wishes. "We keep in service," he wrote to Kosciusko, asking employment for some Polish officers, "no more than men enough to garrison the small posts dispersed at great distances on our frontiers, which garrisons will generally consist of a captain's company only, and in no case of more than two or three; in not one, of a sufficient number to require a field officer; and no circumstances whatever can bring these garrisons together, because it would be an abandonment of their forts. The session of the first Congress convened since Republicanism has recovered its ascendency," he triumphantly adds, "is now drawing to a close. They will pretty completely fulfil all the desires of the people. They have reduced the Army and Navy to what is barely necessary. They are disarming Executive patronage and preponderance by putting down one-half the offices of the United States, which are no longer necessary. These economies have enabled them to suppress all the internal taxes, and still to make such provision for the payment of their public debt, as to discharge that in *eighteen* years." So careless was he of truth. "They have lopped off a parasytic limb, planted by their predecessors in the judiciary body for *party purposes*," also untrue. "They are opening the doors of hospitality to the fugitives from the oppressions of other countries, and we have suppressed all those public forms and ceremonies which tended to familiarize the public eye to the harbingers of another form of government." "I add," he closes, "no signature, because unnecessary for you."

The act granting relief in cases of Bankruptcy had been passed in despite of the strenuous opposition of the

Democratic party. In the course of its being discussed, its provisions were vehemently decried, and many appeals were made to popular prejudices. It was now sought to gratify those prejudices by a repeal of this act. The repeal was deferred, but a procedure of a marked character occurred. By the existing law the commissioners of bankruptcy, constituting a numerous body, were appointed by the judges of the Court from which the commissions issued. The selection was confided to the tribunal having supervision of the proceedings. The clause conferring this power was now repealed, and the exclusive nomination of these officers was vested in the President! Men of unblemished character and superior fitness were immediately removed to bestow offices on persons, of many of whom the incompetency was notorious. The patronage would seem to have been transferred to the President with a view solely to gratify political adherents.

It was the promise of Jefferson's partisans, that they would expose corruption* and establish reforms. For their detection and exposure he was looking most anxiously. "I take it for granted," he wrote Madison, three days before his inauguration, "one of the first steps of the Administration will be to institute returns, particularly in the Navy and War departments, of the precise state in which every circumstance involved in them comes into the new hands. This will answer the double purpose of enabling the public to do justice to the authors of past errors and abuses, and the authors of future reforms." Though vested with a full power of inquiry and

* Monroe to Jefferson, 1801, charges "corruption in every department of the Government;" urges investigation, and calls the Federalists "a *tory faction.*"

aided by subordinates eager to attract favor by their zeal, not a single delinquency was ascertained. Disappointed in the search of what did not exist, the investigation ended in suggestions of change, which were found to be impracticable; and in a reproof of expenditures "from appropriations designed by law for other objects."

The instance to which this reproof referred was in the Department of Colonel Pickering. The eagerness to fix the public odium upon this estimable public servant, may be inferred from the means of inculpation resorted to. In the absence of all grounds of suspicion, the Department of State was entered clandestinely at night, and partial copies* of documents were surreptitiously obtained.

But it was in vain sought to impeach his integrity. The report of the investigating committee, to whom Gallatin gave his aid, though insidiously drawn, established the fact, that by the exercise of the discretion for which he was arraigned, he made a large gain to the Treasury. Nor should it be forgotten that the acts for which he was impugned were sanctioned by Congress.†

* A meeting of several leading Democrats was held at Philadelphia, waiting the result. In the mean time a clerk in the State department entered it at night and took extracts from the documents clandestinely. Selections of such as would give false impressions were published. Two of the persons engaged in this procedure were provided for by Jefferson within the United States—a third received a Consulate.

† This report purported to state *all* the defalcations which had occurred. Its language as to Edmund Randolph was, "A suit not yet decided against Mr. Randolph, formerly Secretary of State, for a balance unaccounted by him." It omitted to state, that this was a balance of $51,000 adjusted in the year 1797. Two letters from Gallatin, showing the real nature of the delinquency, and referred to in the report, were both suppressed. Of this public document, which imputed to Col. Pickering a misapplication of the public monies, two *different impressions* were printed, one full, the other garbled. The *mutilated* one, it was publicly charged, was circulated *under the frank of Madison*. A full and conclusive reply to the charges against the members of the late cabinet was soon

Stoddert, the late Secretary of the Navy, was also an object of calumny. The misapplication of money, imputed to him, was, that he had purchased Navy Yards without authority, when he ought to have hired them. On the *afternoon* of the day preceding that on which he was informed that the Committee had determined to Report,* they wrote to him demanding by what authority these purchases were made.

His prompt reply of the same evening was unexpected. It gave a satisfactory explanation of his conduct, showing that the expenses, unavoidably incurred under the system of *hiring* Navy Yards and for improvements useless to the public after the construction had been completed, exceeded the sum paid for the *purchase* of eligible sites, thus permanently secured to the public. It was in vain urged, that this reply be appended to the Report.—This would defeat the object of the majority, and was refused. The procedure of Stoddert was nevertheless subsequently approved by a further appropriation by Congress, expressly for completing these yards.

Under the charge of an undue multiplication of Offices and Officers, Jefferson had referred to the appointment of agents for the supply of the Navy. These appointments were made, in consequence of the rupture with

after made in an able address by Oliver Wolcott to the people of the United States.

* Giles, the chief actor as to this Report, pursued the same line of conduct previously adopted towards Hamilton. On the 14*th December*, 1801, this committee was appointed. They asked Gallatin's explanations on the 21*st January* following. His reply bore date the 2*d* of *March*. The Report was deferred until the 29*th* of *April*, *four days prior* to the termination of the session. Though it did not venture a direct charge of money unaccounted for, yet in the same spirit which had governed in the attack upon Hamilton's official conduct, enough was said to excite suspicions and raise expectations of further exposures, which were not attempted.

France, in order to accelerate naval preparations at as many points, as could be advantageously occupied! It was alleged, that when an accommodation was effected, these officers should have been discontinued. Yet in several early instances of removal, it was only done to substitute members of his own sect.

The Message also stated that "the inspectors of the internal revenue, who were found to obstruct the accountability of the institution, have been discontinued." In the statement previously made of this "institution," it has been seen that the revenues of no other Government were perhaps ever collected under a more simple organization, or through a smaller number of channels. The motives to the appointment of Inspectors are mentioned by Hamilton—"That in the States where great opposition was expected and actually experienced, it was useful to have the exertions of men of weight and character to reconcile discontent, and to arrange and give energy to the collection."—"Whether the discontinuance of them was wise, was problematical. But if so, it did not prove that in the original establishment they had not been useful." Hamilton viewed the inculpation of the past Administration on this ground as "intended to set off to the best advantage the petty services of petty talents."

A debate also arose upon a bill respecting salaries, which gave the Federalists an opportunity of exhibiting the inconsistency of the leading Democrats. Giles especially derided the idea that there was any cause to dread the expense of the Civil list, and that a reduction of salaries could have little effect on the National expenditures, —expenditures and supplies he no longer regarded as a "wheel of fortune."

A proposal was also made at this time to reduce the pay of the members of Congress. The idea of such a

personal sacrifice could not have been entertained for a moment by zealous patriots, flushed with recent triumph. It was not pursued. The reductions in the public expenditure, small as they were, would, it was hoped, secure the dominance of the Democratic party; but the Fiscal arrangements had been such a frequent theme of clamor, that the President thought it necessary to introduce some innovations. Soon after his election, Jefferson wrote to Gallatin, urging such "honest and judicious reformations, as they might be able, to bring things back to that simple and intelligible system on which they should have been organized at first;" and proposed a reduction of the Officers of the Treasury, to a Keeper of the Money, a Keeper of Accounts and the Head of the Department. The latter of these suggestions was not heeded, Gallatin remarking that "the Treasury was the only Department of the Government which was perfectly organized."

The other contemplated "reformations" were not proposed by the President until after Gallatin's appointment had been confirmed by the Senate. Late in the Session, a letter was addressed to him by John Randolph, the Chairman of the Committee of Ways and Means. His reply, though a labored effort to censure the fiscal arrangements subsequent to that period, contained a distinct approval of the plan of seventeen hundred ninety-five, submitted to Congress by Hamilton a short time previous to his retirement from Office, which Gallatin lamented was not carried out in all its parts.*

* "Nothing more," Gallatin remarked, "seems necessary for those several objects than to make for the debts intended to be discharged, *as adequate a provision as is made by the Act of 3d March*, 1795, for the payment of the eight per cent. annuity on the six per cent. and deferred stocks, by vesting in the commissioners of the Sinking Fund, in addition to the other funds already vested in them, such annual sum out of the duties on tonnage and merchandize as

Availing himself of the resources which Hamilton's system had placed at his command, Gallatin renewed a proposition previously made by him to apply the annual surplus of Seven Millions three hundred thousand dollars to the payment of the debt, with a modification, however, that, if certain estimates should prove erroneous, then this sum should *not* be applied solely to the redemption of the debt, but also to the discharge of some eventual demands. He also asked authority to postpone the payment of part of the Dutch debt by *reloans*, and to employ a special agent in Holland for that purpose. This was followed by the suggestion of advantage to the public, should authority be given to employ a Bank, as an agent for the purchase of remittances.

The Report of the Committee of Ways and Means was broad enough. After stating the importance of "liberating the revenues of the Union from their present heavy incumbrances, that no effectual provision for the final Redemption of the whole present debt existed, that to the measures already adopted, their complexity formed an objection inferior only to their insufficiency," it proposed "the simple plan of appropriating permanently so much of the annual revenue as may be requisite to discharge the debt—a sum not exceeding the probable excess of the annual receipts beyond the current expenditures." Thus was to be accomplished Jefferson's great reform by a contingent application of the annual surplus revenue, which the genius of a former Statesman had suggested and an enlightened Congress had provided, to the annual payments of debts! With this view, a bill

will be equal to the proposed redemption. This provision will be determinate in its amount—simple in its execution—certain in its effect. It will neither alter nor derange *a single existing appropriation* or payment in relation to the Sinking Fund."

was reported under the deceptive title of, "an act for the Redemption of the WHOLE PUBLIC DEBT." This act, loosely drawn, loosely construed, and loosely executed, did not provide for the objects it professed to accomplish, but was in fact, an act for the *continuance* of the debt. Instead of pursuing the former system, (only to be deviated from by considerations of the highest necessity,) that of redeeming the debt as it fell due, and increasing the Sinking Fund, it proposed to redeem a considerable part of that debt by borrowing money at a higher rate of interest than the debt then bore. It was objected, that this bill authorized the deferring of the payment of each instalment successively as it became due, for Six years, and a premium of five per cent. for renewing this loan—thus continuing the debt and increasing its amount. Why, it was asked, do you not apply the admitted surplus to the payment of the Dutch debt? These objections were little heeded. The bill passed the House without any of the proposed checks. The reloaning was authorized, and a power, granted contingently by a former act, was insidiously revived. The object of this measure was obvious. The Government would thus avoid the necessity of paying any part of the debt during the present term of this Administration,—the effect of the abolition of the internal revenue would not be immediately seen—new taxes would be avoided.

The former laws established funds to meet every part of the debt, as it fell due; only authorizing reloans of parts, when, from unforeseen causes, the revenue should be insufficient to meet the object; and directed that every surplus should be faithfully applied to buy the debt at the best price. The late Law embarrassed these provisions by authorizing reloans at the discretion of the Administration, and created new and unsafe agencies. Yet the

people were told, that this bill developed another great feature of the Republican system—"that the REDEMPTION of the WHOLE DEBT was provided for.—The Democrats, when out of power, declared their indisposition to every unnecessary or wanton increase of the Debt, accompanied by a solemn desire, by measures the most effectual, to diminish and ultimately to extinguish it.—These were their *professions.* The public now are possessed of their acts; and the most perfect harmony is found to exist between them."* This the PEOPLE were told, and they believed it.

In addition to the other inducements thus to evade promise and to palter with public expectation, there was one, which, if it can be supposed to have had any influence, was indeed of an extraordinary character. A loan from the United States, it has been seen, had been at a former period much desired by the Government of France. It has also appeared, that Monroe, at the very moment that reparation for the violations of our neutral rights was withheld by it, entering warmly into the views of that Government, urged the grant of a loan. This circumstance, together with the willingness of Jefferson to lend himself at a much earlier period to an unworthy project for the aid of the French finances, encouraged the expectation, now that her devoted partisans were in power, that a Loan would not be refused to France.

To feel the pulse of the people, the "AURORA" stated, that "there would be nothing improper or impolitic in a loan, if there was a capacity to render such service, but for the derangements of Commerce and the necessity of

* On the 11th February, 1807, Jefferson's second term, an act was passed authorizing the six per cents and deferred three per cents to be discharged by a *new* stock *redeemable at the pleasure* of the Government.

the Government to relieve the people from the burdens of a profligate policy." "If," it added, "the French Agent should indeed offer terms for the discharge of our debts to the Batavian Republic, and take the instalments in provisions, we believe it would be accepted by all parties, and our *Government ought to embrace the overture.*"

The grossness of this attempt to make the influence that France exerted over the Batavian Republic, which she had so recently plundered, subservient to her own wants, by compelling that Republic to permit the United States to pay to France the debt due to the Dutch proprietors, need only be stated. That it was to be paid by this country in provisions does not vary its character. It was a mere repetition of the former policy of appealing to the interests of individuals, known as "flour merchants;"* and of engaging them to exert their influence on the councils of the Administration.

Many confidential conversations were held by Pichon, the French Chargé d'Affaires, on this subject. Having been informed that the Executive could not enter into such an arrangement "without the *interference* of Congress," he waited on several members of both Houses to know their sentiments.† Many of them evinced a disposition favorable to the application. In the mean time, Hamilton was apprized of what was passing. Not believing that "our Government ought to embrace the overture," he caused a publication to be made of the contemplated transaction exhibiting it in all its turpitude.‡ The project was abandoned; and to escape public indignation —a statement was given "from authority," that the inten-

* Infra, vi. 72.

† The Aurora. The statement gives the evidence of the facts it undertakes to controvert.

‡ Evening Post, March 27, 1802.

tion to make the application existed, but that it was not made;—that the disposition to make it was produced by official information, that a large part of the St. Domingo fleet would put into our ports, and the utter inability of the French Minister to provide for it by bills on France—but that the application was subsequently withheld, in consequence of information, that the fleet would not come; and that this step of the French Chargé, "without special authority," (the plea of necessity being superseded,) was not warrantable.

Thus an agent of the despotic Government of Buonaparte is represented as undertaking, "without special authority," to enter into a negotiation for the transfer to France of a debt due to the citizens of another power, and without their being consulted, amounting nearly to ten millions of dollars, in order to provide for *a part* of a St. Domingo fleet!

CHAPTER CLX.

Thus far the innovations of the Democratic party were such, as a wise statesman would deplore, but might justly hope that the energies of this rapidly advancing country would surmount; perhaps, that it would correct its own delusions, and retract its errors.

This hope was fondly indulged and cherished by Hamilton. Referring to the events which were passing, he remarked, while standing on his house-top, tracing the rich outline of the distant landscape, for his mind was always dwelling on the welfare of the people: "Were it possible to ruin such a country, Jefferson would ruin it. Madison, having attained the object of his ambition, will return to his real sentiments." But a measure was now brought forward and pressed with an earnestness which exceeded all of evil he had foreboded, and filled him with the deepest solicitude.

In his efforts to give stability to the other departments of the Government Hamilton had been disappointed, but to the Judiciary of the United States that independence had been secured which was essential to the administration of justice—"peculiarly essential," he observed, "in a limited Constitution." Though subject to impeachment for official misconduct, the Judiciary, by their permanency in office, "a quality," he said, "which may justly

be regarded as an indispensable ingredient in its Constitution, and, in a great measure, as the CITADEL of the public justice and the public security," and by their fixed compensation, were placed beyond the reach of party.

Unless the patronage of the Executive should be so far prostituted as to barter these high trusts for partisan servility, (an abuse he was unwilling to anticipate in an enlightened age,) this great depository of national honor, interest and safety could not be assailed without an inroad upon the great Charter of the Republic.

The originating of this great tribunal of all-pervading justice has been traced to Hamilton. He had succeeded by his construction of this department of the Government, in imparting to it all the completeness of his own expanded genius. Whether regarded in respect to the rights conferred upon it, the offices to be performed by it, or the parties under its jurisdiction, it is the highest, the most commanding Court ever constituted—at the same time, the guardian and the handmaid of the Constitution.

If Hamilton was keenly alive to all its value, and, as essential to that value, to the preserving of the independence of the judges, Jefferson was most hostile to it. Writing to Madison during the discussion of the law for the amendment of the Judiciary system, when Vice-President, he observed, "They have got their Judiciary bill forwarded to commitment. I dread this above all the measures meditated, because appointments *in the nature of freehold* render it *difficult* to undo what is done." "All appointments to civil offices during pleasure, made after *the event of the election was certainly known* to Adams," he considered, "as *nullities*." "I do not view," he wrote, "the persons appointed as even candidates for the office, but make others without noticing or notifying them." But as to the appointments to judicial offices

during good behavior, "it was difficult to undo them." Certain persons had been nominated to the Senate by Adams for such appointments, whose nominations were confirmed. Their commissions had been signed by the President, and sent to the office of the Secretary of State, to be recorded and transmitted. The appointments were publicly announced. The press of business at the close of the session prevented a record of them being made. The commissions were confided to the integrity of the person who should be appointed by Jefferson to that department.

One of the first of Madison's acts was to withhold these commissions. Aware of the illegality of this act and anxious to escape public censure, an outline of the reasons of it, prepared with much art, was published in the official gazette.* The injured parties applied to the Supreme Court for a mandamus, commanding Madison to deliver the commissions to the persons who had been appointed.

Whatever his professions, Jefferson could not brook the existence of any power, however constitutional, that was above or independent of his will. Nor was the day far distant, when exalted by a political success wholly fortuitous, he disclosed the uncontrollable force claimed for this executive will. "You seem to think, it devolved on the Judges to decide on the validity of the Sedition law" and of course, of any other law. "But nothing in the Constitution has given them a right to decide for the Executive, more than to the Executive to decide for them. Both magistrates are equally independent in the sphere of action assigned to them. But the opinion which gives to the Judges the right to decide what laws are constitu-

* National Intelligencer, April 31, 1801.

tional and what are not, not only for themselves *in their own sphere of action*, but for the Legislative and Executive also, in their spheres, would make the Judiciary a despotic branch."*

Though he had pronounced the Judiciary "immovable," he had resolved to remove it. Nor were he or the controlling members of his Cabinet also without personal griefs to be revenged upon this, the most sacred institution of this country. Jefferson has been seen trembling at the apprehended infliction upon himself of the penalties of the Sedition act, and hating the Judges, the Attorneys, the Marshalls of the Republic; invoking, while Vice-President of the United States, the State power of Virginia to legislate for his protection against a law of the United States. Madison had, in obedience to his patron, arrayed that State against those laws. Gallatin had escaped judicial investigation, sentence, capital punishment, for a violation of those laws, by availing himself of a proffered pardon.

Thus called to view, the spectacle is less strange of the Executive department of this Government inciting the Legislative department to invade the Judiciary department, when the very existence of the Constitution depends upon an *organization* independent each of the other; a *support*, not at the discretion of any other; the establishment and continuance of *mutual relations of authority*, so as to make one a check upon another, and enable them reciprocally to resist encroachments, and confine one another within their proper sphere.† Nor was the Administration without another powerful motive, that of making the Judiciary tremble in its turn, and be-

* Jefferson to Mrs. Adams. Jefferson's Works, iv. 561, ed. 1854.

† Hamilton's Works, vii. 813.

come the vilely subservient instrument of persecuting vengeance.

Jefferson's intention to assail the Judiciary, it has been seen, was disclosed to Congress, though in cautious terms, as a part of the extensive reforms he contemplated. "The States individually have principal care of our persons, our property, and our reputation, constituting the great field of human concerns." Therefore he said, "We may well doubt whether our organization is not too complicated and expensive." He added, "The Judiciary system will *of course* present itself to the contemplation of Congress," and that they might be able to judge of the proportion the institution bore to the business, he mentioned that he had caused an exact statement to be made of all the causes decided, since its establishment and then depending.

In an early number of the "Examination," Hamilton took a brief view of this obscure suggestion of Jefferson's purposes. This paper contains a summary of the objects which were designed to be accomplished by the arrangement of the Judiciary power, as made in the Constitution, and of the organization which had been adopted to give effect to those objects.*

* "1st. To provide a faithful and efficient organ for carrying into execution the Laws of the United States, which otherwise would be a *dead letter*. 2d. To secure the fair interpretation and execution of our treaties with foreign nations. 3d. To maintain harmony between the individual States; not only by an independent and impartial mode of determining controversies between them, but by frustrating the effects of partial laws in any one, injurious to the rights of the citizens of another. 4th. To guard generally against invasions of property and right by fraudulent and oppressive laws of particular States, enforced by their own tribunals. 5th. To guard the rights and conciliate the confidence of Foreigners, by giving them the option of tribunals created by and responsible to the General Government, which, having the immediate charge of our external relations, including the care of our national peace,

In its original organization, the Judiciary Department consisted of one Supreme Court with six Judges, who twice a year made the tour of the United States, distributed into three circuits for the trial of causes arising in the respective districts of each circuit; and of fifteen District Courts, each having a single Judge.

The inconveniences of this organization were so obvious, that as early as the year seventeen hundred and ninety-two, a representation was made by the Judges, who stated that the Judiciary act was passed "rather as introducing a temporary expedient than a permanent system," urging a change—a representation which was renewed in seventeen hundred ninety-four.

This plan was inadequate to its object, and could not be carried into execution from the immense journeys which the extent of the United States required to be made. It was also no uncommon circumstance for temporary interruptions in the health of particular Judges, of whom only one was attached to a Circuit, to occasion a failure in the sessions of the Court, highly injurious to the suitor. There was neither time for sufficient deliberation at Court, nor for the necessary studies at home.

might be expected to be more tenacious of such an administration of justice as would leave the citizens of other countries no real cause of complaint. 6th. To protect reciprocally the rights, and inspire mutually the confidence of the citizens of different States in their intercourse with each other, by enabling them to resort to tribunals so constituted as to be effectually free from local bias or partiality. 7th. To give the citizens of each State a fair chance of impartial justice through the medium of these tribunals, in cases in which the titles to property might depend on the conflicting grants of different States. These were the immensely important objects to be attained by the institution of an adequate Judiciary power in the Government of the United States. To the institution of a competent Judiciary little less, than to any one provision in that Constitution is to be ascribed the rapid and salutary renovation of our affairs which succeeded."

A modification was introduced, but the evil was not corrected.

Either the Circuit Courts must be renounced or constituted differently. The latter was preferred. The United States were divided into six Circuits, having three distinct Judges to each, with the exception of one Circuit having a single Judge. Each Circuit comprised three States, forming an area of territory equal to that possessed by some of the first powers of Europe. The number of Districts was increased from fifteen to twenty-two, with a Judge for each, as before. In both plans, the Supreme Court was to hold two terms in each year at the Seat of Government, and the Circuit Courts were to sit twice a year in each District.

The difference of the two systems as to the number of Organs by which they were to be executed was reducible to the creation of twenty-three additional Judges —sixteen for the Circuit Courts, seven for the additional Districts, with the necessary number of Clerks and Marshals. The number of the Judges of the Supreme Court was to be reduced from six to five, when a vacancy should occur. Beside the more prompt dispensation of justice, the right and the policy of employing the agency of State Courts to execute the laws of the Union were by some deemed questionable. This organization would render that agency unnecessary.

On the fourth of January, notice was given by Breckenridge of Kentucky, in the Senate, and by John Randolph in the House, of a resolution to inquire, whether any and what alterations should be made in the Judiciary Department. To this were appended resolutions to secure the impartial selection of Juries in the Courts of the United States, and to inquire what reductions can be made in the Civil Establishment. These latter resolutions

were merely intended to conciliate favor to the former; and, on the day appointed for their consideration, Breckenridge, passing them by, moved that the act of the last session respecting the Judiciary Establishment, be repealed. He was seconded by Mason of Virginia.

On the eighth of January the debate commenced in the Senate. A leading motive to this repeal was stated to be the small number of suits previously decided and then depending in those Courts. The power of abolishing them was next considered. The Judicial power was vested by the Constitution in "one Supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish." This was pronounced a discretionary power. It would be a paradox to say Congress *may* establish and *shall not* abolish these inferior Courts. The Constitution declares, the Judges shall not be removed from office during good behavior, nor their salaries diminished during their continuance in office. Thus a Judge is totally out of the power of the President, and his salary secured against Legislative diminution during his continuance in office. The first check applies to the President only, and the other to the Legislature only. Shall a Judge hold his office after it is abolished? Can his term be limited by behaving well in an office which does not exist? Can the shadow, the Judge, remain, when the substance, the office, is removed? If so, the Constitution would have declared that Judges should hold their offices *and salaries* during good behavior. It is a principle of it, that no man shall receive public money but for public services. Yet by a different construction, complete sinecure offices will be created—hosts of Constitutional pensioners settled upon us.

The Judges of England are removed by a joint vote of the Lords and Commons. Here, they can be removed

only by malfeasance in office; which, if the law is repealed, could not be committed, as they would have no office. And no Government can seriously deny that this legislature has a right to repeal a law, enacted by a preceding one.

These views were sustained by Mason, Wright, and Jackson. Tracy and Morris replied. The latter derided with finished irony, the fallacy of the *numerical* argument as to the business of these Courts, and the alleged expensiveness of the new system, which, he said, would cost on an apportionment of its charges just one cent to each individual of the Union. He then pointed out the necessity of the change that had been made, to the due administration of Justice. "What," he asked, "will be the effect of this repeal? It will be to declare to the remaining Judges that they hold their offices subject to the pleasure of the Legislature. The Judicial check is thus destroyed." Adverting to the criticism on the words "shall and may," he showed that the Constitution was equally imperative both as "to the tenure of office" and as to the compensation. "The Constitution secures to a Judge his office and his undiminished salary. You assert, that you may repeal the law and thus destroy the office. But, it is said, 'whatever we can make we can destroy. No Legislature can bind its successor.' If so, the whim of the moment becomes the law of the land. Your country will be looked upon as a den of robbers. Every honest man will fly your shores. One great provision of the Constitution, that which exhibited the sublime spectacle of a great State bowing before the tribunal of Justice, is gone. Another great bulwark is now to be removed. We are told to look to the States for protection. What is to be the effect of these changes? I am afraid to say.—But

remember, the moment this Union is dissolved, *we shall no longer be governed by* VOTES!"

When the bill was called up for a third reading, a reference to a select committee was moved, with instructions to report the alterations which might be proper in the system. The votes on this motion being equal, Burr, as Vice-President, gave his casting voice in favor of the reference, and a Committee was chosen.

This vote raised momentary hopes in the Federalists. They regarded it as the result of a determination on his part to sustain the Constitution. But it was merely a vote of expediency, to avoid the responsibility of deciding the principal point, or to obtain confidence from apparent candor. For he was of the opinion, that* the "Constitutional right and power of the repeal could not be doubted, and that the power thus to deprive Judges of their offices and salaries must also be admitted"—but, "whether it would be constitutionally moral, and, if so, politic and expedient," were questions in his mind.

On the second of February, during the temporary absence of a Senator hostile to the repeal, it was moved to discharge this committee, which motion, the Democratic number being increased by the arrival of a Senator from Vermont, prevailed; and the following day, after a renewed debate,† the bill passed by a majority of *one* vote.

Immediately after intelligence of this result reached New York, a letter was received from the Bar of Philadelphia calling upon that of New York to present a memorial to Congress against the passage of this law. A meeting of the New York bar was held, and they were addressed by Hamilton in a speech of such power as to

* Burr to Barnabas Bidwell. Burr's Life, by Davis, ii. 169.

† In this debate, Wells, Chipman, and Dayton were highly distinguished.

extort from a determined opponent the exclamation—"If we had such a man with us what could we not accomplish?" At the close of his animated address, he declared, "Although I believe nothing will now avail, I would give every drop of my heart's blood to arrest the present destructive system of public measures." He, however, dissuaded any petition from the bar. This was regretted by Morris. He wrote to Hamilton, that it would stop any similar petitions from New England, and would enable his personal enemies to say that he "wished the repeal to take effect so as to overturn the Constitution." In the same letter, Morris suggested the utility of appointing committees of Correspondence along the seaboard, and a general meeting at New York to consider Constitutional measures to secure the independence of the State, and the National Compact, and to petition the President against the repeal of the Judiciary system.

Hamilton's reply, of the twenty-seventh of February, is highly interesting:

"My dear Sir:—Your letter of the twenty-second is the third favor for which I am indebted to you since you left New York. Your frankness in giving me your opinion as to the expediency of an application of our Bar to Congress obliges me. But you know we are not readily persuaded to think we have been wrong. Were the matter to be done over, I should pursue the same course. I did not believe the measure would be useful as a preventive, and for the people, an expression of our opinion by letter would be as good as a Memorial. It appeared to me best, because it saved our delicacy; and because, in the abstract, I am not overfond of the precedent of the Bar addressing Congress. But I did what I thought likely to do more good. I *induced* the Chamber of Commerce to send a Memorial. As to the rest, I should be a very unhappy man, if I left my tranquillity at the mercy of the interpretations which friends as well as foes are fond of giving to my conduct. Mine is an odd destiny. Perhaps no man in the United States has sacrificed or done more for the present Constitution than myself; and contrary to all my anticipations of its fate, as you know,

from the very beginning. I am still laboring to prop the frail and worthless fabric. Yet I have the murmurs of its friends no less than the curses of its foes for my reward. What can I do better, than withdraw from the scene? Every day proves to me more and more that this American World was not made for me.

"The suggestions with which you close your letter, suppose a much sounder state of the public mind than at present exists. Attempts to make a show of a general *popular* dislike of the pending measures of the Government, would only serve to manifest the direct reverse. Impressions are indeed making, but, as yet, within a very narrow sphere. The time may ere long arrive when the minds of men will be prepared to make an effort to *recover* the Constitution, but the many cannot now be brought to make a stand for its preservation. We must wait awhile. I have read your speeches with great pleasure. They are truly worthy of you. Your real friends had many sources of satisfaction on account of them. The conspiracy of Dulness was at work. It chose to misinterpret your moderation in certain transactions of a personal reference. A public, energetic display of your talents and principles was requisite to silence the Cavillers. It is now done. You, friend Morris, are by *birth* a native of this country, but by *genius* an exotic. You mistake, if you fancy that you are more a favorite than myself, or that you are, in any sort, upon a theatre suited to you. Adieu. Yrs. ever."

Though averse to a petition from the Bar as tending to revolutionary influences, General Hamilton did not cease to labor for the Constitution.

The House was yet to act on the Judiciary bill, and he resumed his "Examination" of the President's Message, by a full discussion of the great principles involved in the proposed repeal. These numbers of this Examination form a valuable pendant to the Essays of "The Federalist."

This discussion was renewed by him on the twenty-third of February, and was continued until after the question had been decided by the House of Representatives. He declared, "it was hardly to have been imagined that a

majority of either House, whether from design or error, would have lent its sanction to a glaring violation of our National Compact in that Article, of all others, the most essential to the efficiency and stability of the Government; to the security of property; to the safety and liberty of person. This portentous and frightful phenomenon has, nevertheless, appeared. It frowns with malignant and deadly aspect upon our Constitution. Probably before these remarks will be read, that Constitution will be no more. It will be numbered among the numerous victims of Democratic phrenzy, and will have given another and an awful lesson to mankind—the prelude, perhaps, of calamities to this country, at the contemplation of which Imagination shudders. Nothing ought to be unessayed to open the eyes of thinking men to the destructive projects of those mountebank politicians who are advancing with rapid strides in the work of disorganization—the sure forerunner of tyranny; and who, if they are not arrested in their mad career, will ere long precipitate our nation into all the horrors of anarchy."

He then passed to an interpretation of the Constitution, declaring that the terms as to the duration of the Judicial office were imperative, simple, and unqualified. The provision must be understood to vest in the Judge a right to the office, indefeasible but by his own misconduct.

"Those who deny this right must show either that there are certain presumptions of intention deducible from other parts of the Instrument; or certain general principles of Constitutional law or policy, which ought to control the literal, and substitute a different meaning. As to presumptions of intention different from the import of the terms, he showed by analyzing them, that there was not a syllable in the instrument from which they can be inferred. A prohibition to take away a *part* of the compensation cannot be supposed to leave the liberty to take away the whole. The restraint would be nugatory.

"The position that a discretionary power to institute inferior Courts includes virtually a power to abolish them, if true, is nothing to the purpose. The abolition of a Court does not necessarily imply that of its Judges. In contemplation of law, the Court and the Judges are distinct things. The Court may have a legal existence, though there may be no Judge to exercise its powers—as, at its original creation before an appointment, or subsequently by a vacancy in the office.

"The office of the Judge may also subsist, though the Court in which he is to officiate may be abolished or destroyed. His duties are judicial and ministerial. As Conservator of the Peace, many things are done by him not connected with a judicial controversy. Thus, the office is something different from the Court. He has also a property or interest in his office which entitles him to civil actions and recompence in damages for injuries that affect him in relation to his office: but he cannot be said to have a property or interest in the Court of which he is a member. If it be said, the office is an incident to the Court, and the abolition of the principal includes that of the incidents, the answer is, This may be so as to all subsequent, but not as to previous appointments. The Constitution having pronounced that its tenure shall be during good behaviour will preserve the office, to give effect to that tenure for the benefit of the possessor. Let it not be said, that an office is a mere trust for public benefit, and excludes the idea of a property or vested interest in the individual. The first part of the proposition is true, the last false. Every office combines two ingredients, an interest in the possessor, and a trust for the public.

"But, admitting, as seems to have been admitted by the speakers on both sides of the question, that the Judge must fall with the Court, the only consequence will be, that Congress cannot abolish a Court once established. Different provisions in the same instrument must be so construed, if possible, as to comport with each other, and give a reasonable effect to all. The provision vesting the Judiciary power is immediately followed by this other provision: 'The Judges, *both* of the Supreme and Inferior Courts, shall hold their offices during good behaviour.'

"The proposition, that a power to do includes virtually a power to undo, as applied to a legislative body, is generally, but not universally, true. All *vested rights* form an exception to this rule. In strict theory, there is no lawful or moral power to divest by a subsequent statute, a right vested in an individual by a prior. It is a familiar doc-

trine, that the repeal of a law does not always work a revocation or divestiture of such rights. If it be replied, that though a Legislature might act immorally and wickedly, in abrogating a vested right, yet the legal *validity* of its act for such a purpose could not be disputed, it may be answered, that this odious position, in any application of it, is liable to question in every limited Constitution, (that is, in every Constitution which in its theory does not suppose the WHOLE POWER of the nation to be lodged in the legislative body;) and that it is certainly false in its application to a Legislature, the authorities of which are defined by a positive written Constitution, as to every thing which is contrary to the actual provisions of that Constitution. To deny this is to affirm, that the *delegated* is paramount to the *constituent* power. It is to affirm, that there *are no constitutional limits to the legislative authority*. Is not the power to abolish Inferior Courts, if implied in that of creating them, abridged by the clause which regulates the tenure of Judicial office?

"The power to abolish is, at most, an implied, incidental power, and will more readily yield to any express provision with which it may be inconsistent. A discretionary power to *institute* Courts, from the impracticability of ascertaining beforehand the number and variety, which the development of our national affairs might indicate to be proper, was indispensable. But this did not render indispensable a power to abolish those which were once instituted. It is not presumable, with regard to establishments of such solemnity and importance, making part of the *organization* of a principal department of the Government, that a fluctuation of plans was anticipated. It is not therefore essential to suppose, that the power to destroy was intended to be included in the power to create. And as the grant of the power to institute Courts is immediately succeeded by the declaration that the Judges of those Courts shall hold during good behaviour, if the exercise of the power to abolish the Courts, cannot be reconciled with the actual holding or enjoyment of the office, according to the prescribed tenure, it will follow, that the power to abolish is interdicted. The implied or hypothetical power, to destroy the office, must give way to the express and positive right of holding it during good behaviour. This is agreeable to the soundest rules of construction; the contrary is subversive of them.

"Equally vain is the argument, that as the Supreme Court is established by the Constitution, it cannot be annulled by a legislative act,

but that the Inferior Courts, owing their existence to such an act, may, by the same authority, be extinguished. The Constitution establishes the Supreme Court, but is silent as to the number of Judges. This is as fully left to legislative discretion as the institution of inferior Courts; and the rule that the power to undo is implied in the power to do, is no less applicable to the reduction of the number of the Judges of the Supreme Court, than to the abolition of the Inferior Courts. It is plain to a demonstration, that the doctrine which affirms the right of Congress to abolish the Judges of the Inferior Courts is absolutely fatal to the Independence of the Judiciary Department."

In the next number, he considered the most specious of the arguments used in support of the repeal—that the provision concerning the tenure of office ought to be viewed as a restraint upon the Executive Department, because to it belongs the power of removal, as the provision concerning the compensation ought to be regarded as a restraint upon the legislative Department, because to this belongs the power of regulating compensations. This argument is fully and decisively answered. This answer is followed by a second most important exposure of the alleged maxim, that a preceding can never bind or control a succeeding legislature by its acts, which are, therefore, at the discretion of its successor:

"But were this so, still the Constitution may bind and control the legislature. Has it not bound it?"

"In each of the articles which establishes any branch of the Government, the duration of office is a prominent feature. Each period was established in the same spirit, as a point material in the organization of the Government, and of a nature properly fundamental. It will not be pretended, that the duration of office prescribed as to any other department, is within the reach of Legislative discretion. And why shall that of judicial officers form an exception? Why shall the Constitution be supposed less tenacious of securing to this organ of the sovereign power a fixed duration, than to any other? If there be any thing which ought to be supposed to be peculiarly excepted out of the power of the ordinary Legislature, it is emphatically the organization

of the several constituent departments of the Government, which, in our system, are the Legislative, Executive, and Judiciary."

The succeeding number takes a commanding survey of the importance of the judicial office, and of the danger of the absorbing character of the legislative power in Governments wholly popular or representative:

"Safety, liberty are inseparably connected with the real and substantial independence of the Courts and Judges. Therefore, being the weakest, the highest motives of constitutional policy forbade that construction which places the existence of the Judges at the mercy of the Legislature."

In confirmation of the principle, that, as a concentration of power is the essence of despotism, the departments among which they shall be distributed should be effectually independent of each other, he adduced the cotemporary interpretations of "the Federalist," as evidence of the views with which the Constitution was framed. These were followed by quotations from Jefferson's notes on Virginia, showing his conviction of the necessity of a barrier between the different departments, and his condemnation of its constitution, which left "the *Judiciary* and Executive members *dependent on the* Legislature."

Passing from "this variable and fallible authority," Hamilton gave his own construction of the Constitution, which was:

"That Congress have a right to change or abolish inferior Courts, but not to abolish the actual Judge. The Courts and the Judges being distinct legal entities." "The opposite and conflicting considerations in this case demanded a compromise of this nature. If the inferior Courts were found inconvenient, they could be abolished, the Judges retaining their offices, and thus this construction would enable the community to be relieved from an error in the original constitution of those Courts, and would secure the benefits intended by the Constitution to be derived from the independent tenure of judicial office. It

would also be a great restraint on the *factious motives* which might induce the *abolition of a Court.*"

When the bill came from the Senate to the House, a reference to a select committee was requested by the Federalists, but was refused. They then asked delay, but an early day after it had been passed in the Senate was appointed for its discussion. Further delay was requested to give time to learn the state of public opinion on so important a measure. It was refused, and the following day, February the sixteenth, the debate commenced. The leaders in favor of the repeal were, Colonel Smith, Nicholson, Randolph and Giles. Its opponents were, Bayard, Goddard, Griswold of Connecticut, and Stanley of North Carolina.

The speech of Giles was considered as expressing the views of the Chief of the Democratic party. His preliminary observations, which were much extended, purported to give a history of the origin and character of the respective parties in the United States. Having thus quickened the passions of his partisans, he passed to the Constitutional question.

Bayard, in a speech which greatly increased his well established reputation, followed the outline of the history of parties, vindicated that of which he was a member, and exposed in a detail of undenied facts the gross corruption practised by Jefferson to secure his election to the Presidency. He considered next the original Judicial Establishment, indicated its defects, and the remedies which had been provided in the new system, showing the falsity of the statement made by Jefferson as to the business of the Courts. He ended with a discussion of the Constitutional question. "Do not say," he observed in his closing observations, "that you render the Judges dependent only

on the people. You make them dependent on your President. The tide of opinion which changes a President will change the majorities in both branches of the legislature. The Legislature will be the instrument of his ambition, and he will have the Courts as the instruments of his vengeance. In effect, the powers of the Government will be concentrated in the hands of One man, who will dare to act with more boldness, because he will be sheltered from responsibility. The independence of the Judiciary was the felicity of our Constitution. It was this principle that was to arrest the fury of party upon sudden changes." The vote was taken at a midnight session, in the committee of the whole, and the bill passed the House by a majority of twenty-seven votes.

One position taken by Giles, arrests attention:—that the clause of the Constitution enabling the Judges to hold their offices during good behavior, ought to be understood to have reference to the Executive only, BECAUSE ALL OFFICES are HOLDEN of the PRESIDENT!!!*

To justify a plain violation of the Constitution and serve a party purpose, this bold and dangerous position was avowed without hesitation or scruple, by a person, remarkable chiefly, for the noisy promulgation of popular tenets. Hamilton remarked,

"It is not correct, and is of a nature to demand the indignant reprobation of every real Republican. In the theory of all the American Constitutions, offices are holden of the Government, in other words, of the PEOPLE through the Government. It is said, the word 'HOLDEN' is a technical term, and implying that there is one who holds: another of whom the thing is holden. It is hardly to be presumed, that it was employed in the Constitution in so artificial a sense. But if so, it

* A proposition made in the Convention to authorize the removal of the Judges by the President on the joint application of both Houses was deliberately rejected.

technically in all cases includes *fealty*. Will any one dare to say, that fealty or allegiance, as applied to the Government of the United States, is due from the officer to the President. Certainly it is not. It is due to the people in their political capacity. The Constitution has every where used the language—'Officers of the United States.' His oath is to support the Constitution, an oath of fidelity to the Government, but no oath of any kind to the President."

He examined what he denominated "THIS FORMIDABLE CLAIM" in all its various aspects, and declared,

"It is manifest, that in every attitude in which the subject has been placed, the argument is victorious against the power of Congress to abolish the Judges. But what, alas! avails the demonstration of this important truth? The fatal blow has been struck. It is no longer possible to arrest the rash and daring arm of power."

In the course of this debate, two other doctrines were stated by the Democratic leaders, of an extraordinary character. One denied the right of the Courts to keep the Legislature within its Constitutional bounds, by pronouncing laws which transgress them, inoperative. Yet under the Federal Administrations, laws had been pronounced unconstitutional by the Supreme Court, and were repealed. The other doctrine was, that the Judicial Authority is only an emanation from the Executive power, and a branch of it. How far was this from the genius of an unlimited monarchy?

Much space as has been given to this subject, a further statement is necessary. It was alleged by Jefferson as an excuse for this repeal, that the act was passed on the eve of a great political change, and that the Federalists "had retired with the Judiciary as their stronghold, and from that battery all the works of Republicanism are to be beaten and erased."

It has been seen, that on the institution of the Supreme Court, both Washington and Hamilton regarded a change

as necessary and soon to be effected. Randolph, the Attorney-General, in seventeen hundred ninety, disapproved the Judges of the Supreme Court being Judges of Circuits, and advised a change. In ninety-three, Congress modified the Judiciary Act so as to remove the necessity of two Judges holding a circuit. A revision of the Judiciary System was subsequently often recommended. A new bill had been reported at a previous session, of which that in existence was merely a copy. The subject was presented to Congress, when the Federalists were strongest, and without any reference to a change of parties. Deference to Elsworth, the author of the existing plan, and a difference of opinion as to the new system had alone postponed the change. It was brought forward before the result of the election of President was known, and when the Federalists anticipated success. Yet, the party epithet of "midnight Judges" applied to the new appointments, which were deferred to a late period of Adams' term, was of power to satisfy the multitude. Nor can it be denied that so late an exercise of his power of appointment by the retiring President, was of a nature to excite and to justify the dissatisfaction of his successor.

More to meet the public exigencies, three additional circuits were established, over each of the circuits a Judge of the Supreme Court was to preside, in each district whereof he was, in conjunction with the District Judge, to hold a court semi-annually, while to relieve the duties of the Supreme Court, its terms, instead of semi-annual, were to be held once a year. The incident delays and injuries resulting from this insufficient provision demand an early remedy.

The letters of Jefferson, of this period, addressed to his American Correspondents, are silent on this topic. It was only when writing to Kosciusko, then in Europe, that

he felt it safe to advert to it. Reviewing what Congress had done, he is seen stating in triumphant exultation, "They have lopped off a parasite limb, planted by their predecessors on their Judiciary body for party purposes."

Hamilton, feeling deeply this violent invasion of the Charter of the Union, resolved to endeavor to produce a concert among its friends. He wrote to General Pinckney on the fifteenth of March:

"You will probably have learned, before this reaches you, that the act of last Session, for the better organization of the Judiciary Department, has been repealed; and I take it for granted, that you will with me, view this measure as a vital blow to the Constitution. In my opinion, it demands a systematic and persevering effort *by all constitutional means* to produce a revocation of the precedent, and to restore the Constitution. For this purpose, I deem it essential that there should be, without delay, a meeting and conference of a small number of leading Federalists from different States. Unless there shall be a plan of conduct, proceeding from such a source, our measures will be disjointed, discordant, and of course ineffectual. There is also a further danger which may attend the want of a plan, capable of fixing opinions and determining objects. There are among us *incorrect men with very incorrect views*, which may lead to *combinations* and *projects* injurious to us as a party, and very detrimental to the country. These considerations have determined me to make an attempt to bring about such a meeting. And it has occurred, that the first Monday of May next at the city of Washington, may be a convenient time and place. A general meeting of the Society of the Cincinnati is to be then and there held. I have likewise taken the liberty to request the attendance of Governor Davie of North Carolina. In the event of your concurring in sentiment with me, it will be expedient for you to second my invitation to him. With the truest esteem and most affectionate regard."

This communication was not received by Pinckney in time to make the visit:

"I agree entirely with you, he answered, in your sentiments of the act repealing the act of the last session for the better organization of the Judiciary department; but it was natural to expect that persons

who have always been hostile to the Constitution, would, when they had power, endeavor to destroy a work whose adoption they opposed, and whose execution they have constantly counteracted."

An historian of the subsequent period of this nation's destinies may, perhaps, be led to the conclusion, that an undue importance was given, by the zealous friends of the Constitution, to this attack upon the Judiciary system. Passing by the paramount consideration, that one violation of a Constitution is too often the precedent for another, and for this reason alone demands all the Constitutional opposition of the real friends of the Government, it is important to remark the great effect produced by their united efforts on this occasion. Notwithstanding his deep-rooted, oft-avowed, unsleeping, settled hostility to the Judiciary Department, Jefferson did not dare, his followers have not dared again to invade it. Consecrated in the affections of the people, though impaired in its power and in its independence, it yet exists to guard and to minister to the highest, largest and most sacred interests; one attempt to warp it to a comprehensive inhumanity having been made and failed.*

It was not only by a concert of the Federalists, that Hamilton at this time labored for the Republic. He also availed himself of the internal feuds of his adversaries to give strength to its institutions.

The incidents of the late Presidential Election dwelt in his thoughts. He had seen the Government on the point of being intrusted to a man whom the people had not intended for that trust, who neither enjoyed nor in any respect was worthy of their confidence. He had seen the Republic in immediate danger of a Revolution which menaced its existence. Had an election been pre-

* "Dred Scott Case."

vented, anarchy was inevitable. Had a law been passed, as is said to have been contemplated, for confiding the Government in such an emergency to temporary hands, the friends of Jefferson, in concert with him, "declared openly and firmly, one and all, that the day such an act passed, the middle States would arm; and that no such usurpation, even for a single day, should be submitted to."* "In the event of an usurpation," Jefferson wrote, "I was decidedly with those who were determined not to permit it. Because that precedent once set, would be artificially reproduced and end in a dictator."†

In his plan of a Government, Hamilton did not propose the office of Vice-President. This appendage to the Executive department had been created. His great object now was to correct an imperfection of the Constitution, to suffer the office to remain, which had its uses, but to prevent its being a source of collision, dangerous to the stability of the Government, and to the quiet of the Nation.

That section of the Democratic party hostile to Burr, was predominant in the Councils of New York. He made use of this hostility, and a short time before the meeting of its legislature, he suggested an amendment of the Constitution.

Resolutions were framed, part of which are in his autograph‡—also having in view another great object, the

* John Adams to Jefferson, June 14, 1813. "You and Mr. Madison are indebted to Bayard for an evasion of the contest. Had the voters for Burr addressed the nation, I am not sure that your convention would have decided in your favour. But what reflections does this suggest? What pretensions had Aaron Burr to be President or Vice-President?"

† Jefferson to Monroe. Jefferson's Works, iii. 452. Yet, *fifteen* days after he wrote to Doctor Priestly—"There was *no idea of force*, nor any occasion for it." Ibid. 462.

‡ Hamilton's Works, vii. 836.

inhibition of the appointment of the Presidential Electors by the State legislatures, and their choice, as the Constitution contemplated, directly by the people, regarded as one whole—a nation—not as a confederacy.

These resolutions declared it, "as the sense of the legislature, that amendments ought to be incorporated in the Constitution of the United States, as a necessary safeguard against pernicious dissensions in the choice of a President and Vice-President, and as the most eligible mode of obtaining a full and fair expression of the public will in such Election, that Congress shall, from time to time, divide the States into districts equal to the whole number of Senators and Representatives from such State in the Congress of the United States, and shall direct the mode of choosing an elector of President and Vice-President in each of the said districts, who shall be chosen by citizens who have the qualifications requisite for Electors of the most numerous branch of the State Legislature, the districts to be formed as nearly as may be with an equal proportion of population in each, and of Counties, and if necessary, of parts of Counties contiguous to each other, except where there may be any detached portion of territory, not sufficient of itself to form a district, which then shall be annexed to some other part nearest thereto." And "that in all future elections of President and Vice-President, the persons voted for, shall be particularly designated, by declaring which is voted for as President, and which as Vice-President."

These Resolutions were laid before the legislature of New York by Dewitt Clinton, and were adopted.

That the choice of the electors of a President and Vice-President, in electoral districts, formed regardless of State lines, and as independent, as is possible under the present composite government, of State influences, would most

assure an unconstrained expression of public opinion, and give to it more force, is not to be questioned. That such a distribution of the sovereignty combined with the amendment designating the respective offices which the electors were to fill, would tend to secure the American people from one of the greatest evils that can befall them,—a resulting choice of the Executive by either branch of Congress,—is not less obvious. It was toward this great end that Hamilton's resolutions were now aimed, nor can it be too much, or too often regretted that both his proposed amendments did not become a part of the Federal Constitution. The contrived election of a President by either branch of Congress is the desperate resort of faction and of intrigue, and will inevitably deal the most deadly blow that can be inflicted on the Government, for it will be no other than a conspiracy against the Sovereignty of the people, a denationalizing of this nation. Successfully effected in one instance, it will become the rule and not the exception; and then the carefully devised balances of the Constitution, balances necessary to a free government, will all be overthrown. A President, the creature of Congress, is first its tool, then its master. The artificial majority of such a Congress, combining with the President so chosen, becomes, whatever may be the mask assumed, the enemy of the people. The approval or disapproval of legislative acts will cease to be used as a check. The veto will no more be beneficially interposed. The influence of the Executive will be wholly perverted, and against its abuses the impeaching corrective will in vain be appealed to. A President chosen by a corrupt Congress, and a Congress choosing a President will invariably be corrupt, will renew his own elections; and thus will be accomplished the existence, at the head of the nation, of a power unlimited, irresponsible—a roy-

alty, for a time only, without its trappings, swaying by unworthy means a nominal Republic.

On the fourth of March, Hamilton wrote to Gouverneur Morris:

"You have seen certain resolutions unanimously pass our Legislature for amending the Constitution, first by designating separately the Candidates for President and Vice-President, and second, by having the Electors chosen by the PEOPLE in districts, under the direction of the National Legislature. After mature reflection, I was thoroughly confirmed in my first impression, that it is true federal policy to promote the adoption of these amendments,—Of the first; not only because it is in itself right that the people should know whom they are choosing, and because the present mode gives all possible scope to intrigue, and is dangerous (as we have seen) to the public tranquillity: but because in every thing which gives opportunity for juggling arts our adversaries will, nine times out of ten, excel us. Of the second; because it removes thus far the intervention of the State governments, and strengthens the connection between the Federal head and the people, and because it diminishes the means of party combination, in which also, the burning zeal of our opponents will be generally an overmatch for our temperate flame. I shall be very happy that our friends may think with me, and that *no temporary motive* may induce them to let slip the precious occasion in which personal motives induce the other party to forget their true policy.

"We are told here, that at the close of your birthday feast, a strange *apparition*, which was taken for the Vice-President, appeared among you, and toasted 'the Union of all honest men.' I often hear at the corners of the streets, important Federal secrets of which I am ignorant. This may be one. If the story be true, 'tis a good thing, if we use it well. As an *instrument*, the person will be an auxiliary of *some* value; as a chief, he will disgrace and destroy the party. I suspect, however, the folly of the mass will make him the latter; and from the moment it shall appear this is the plan, it may be depended upon, much more will be lost than gained. I know of no important character who has a less *founded* interest than the man in question. His talents may do well enough for a particular plot, but they are ill-suited to a great and wise drama. But what has wisdom to do with weak man? Adieu."

The same subjects form the topics of an interesting letter to Bayard:

"New York, April 6th, 1802: Amidst the humiliating circumstances which attend our Country, all the sound part of the community must find cause of triumph in the brilliant display of talents which have been employed, though without success, in resisting the follies of an infatuated Administration. And your personal friends will not have much reason for mortification on account of the part you have performed in the interesting scene. But, my dear Sir, we must not content ourselves with a temporary effort to oppose the approach of evil. We must derive instruction from the experience before us; and, learning to form a just estimate of the things to which we have been attached, there must be a systematic and persevering endeavor to establish the fortune of a great Empire on foundations much firmer than have yet been devised. What will signify a vibration of power, if it cannot be used with confidence or energy, and must be again quickly restored to hands which will prostrate, much faster than we shall be able to rear under so frail a system? Nothing will be done, till the structure of our National edifice shall be such as naturally to control eccentric passions and views, and to keep in check demagogues and knaves, in the disguise of patriots. Yet, I fear, a different reasoning will prevail, and an eagerness to recover lost power will betray us into expedients which will be injurious to the Country, and disgraceful and ruinous to ourselves. What meant the *apparition* and the *toast* which made part of the afterpiece of the *birthday festival?* Is it possible, that some new intrigue is about to link the Federalists with a man who can never be any thing else than the bane of a good cause? I dread more from this, than from all the contrivances of the bloated and senseless junto of Virginia. The Federalists and Anti-federalists of this State united in certain amendments to the Constitution now before your House, having for objects, 1st. To discriminate the Candidates for the Presidency and Vice-Presidency. 2d. To have the Electors of these officers chosen by the people, in districts, under the direction of Congress. Both these appear to me points of importance in true Federal calculation. Surely the scene of last Session ought to teach us the intrinsic demerits of the existing plan. It proved to us, how possible it is for a man in whom no party had confidence, and who deserves the confidence of none, by mere intrigue and accident, to acquire the first place in the Government of our Nation. And it also proves to us, how

serious a danger of convulsion and disorder is incident to the plan. On this point, things have come to my knowledge, improper for a letter, which would astonish you. Surely we ought, by this time, to have learned, that whatever multiplies the opportunities and means of cabal, is more favorable to our adversaries than to us. They have certainly the advantage in the game, by greater zeal, activity, and subtlety, and especially by an abandonment of principle. On all these accounts, it is our true policy to abridge the facilities to cabal, as much as possible, in all our public institutions and measures. As to the second of the amendments, it has *ever* appeared to me as sound principle, to let the Federal Government rest, as much as possible, *on the shoulders of the people:* and as little as possible, on those of the State Legislatures. The proposition accords with this principle; and, in my view, it is further recommended by its tendency to exclude *combinations*, which, I am persuaded, in the general and permanent course of things, will operate more against than for us. Colonel Burr, without doubt, will resist these amendments, and he may induce some of our friends to play into his hands; but this will be a very bad calculation, even admitting the inadmissible idea, that he ought to be adopted as a Chief of the Federal party. We never can have him fairly in our power, till we render his situation absolutely hopeless with his old friends. While the indiscriminate voting prevails, he will find it his interest to play fast and loose, and to keep himself in a state to be at the head of the Anti-federal party. If these hopes are cut off, he will immediately set about forming a third party, of which he will be at the head; and then, if we think it worth the while, we can purchase him with his flying squadrons.

"These observations are, of course, hypothetical; for, to my mind, the elevation of Mr. Burr, by Federal means, to the Chief Magistracy of the United States, will be the worst kind of political suicide.

"Adieu, my dear Sir. Yours very sincerely."

Hamilton's propositions for the amendment of the Constitution passed the House of Representatives by a large majority. In the Senate they failed for the want of one vote, that of Gouverneur Morris, who assigned the reasons for that vote to the Legislature of New York.* These were, his aversion to Amendments—that

* Life of Morris, iii. 173.

the objects of the Convention which framed the Constitution were, to prevent the election being confined to two rival Candidates for the Presidency, while the Vice-President would be selected as a make-weight, and probably be a person of inferior qualifications; and "to defeat the fraud, the force, the corruption, which may be used to place bad men in high authority."

He also stated, "that the Convention not only foresaw that a scene might take place similar to that which had recently occurred, but even supposed it not impossible, that at some time or other, a person admirably fitted for the office of President might have an equal vote with one totally unqualified; and that by the predominance of faction in the House of Representatives, the latter might be preferred; and that they thought a *useful lesson* would result from it for the future, to teach contending parties the importance of giving both votes to men fit for the first office."

In reference to opinions so characteristic, yet so unworthy a statesman, Hamilton observed: "One such fact, as the late Election, is worth a thousand beautiful theories."

Of the great motives, it is perceived, which prompted Hamilton to urge these amendments, one was to remove the intervention of the State Governments in the Election of the President of the Nation, and to strengthen the connection between the Federal Head and the People.

His solicitude on this point would naturally be increased by an avowal of the leader of the Democratic party, in the popular branch of Congress, that the Representatives in that branch were the Representatives of the people of the particular States, and not of the aggregate people of the United States, but more by the lan-

guage of the President's Message. In his "Examination" of that document, Hamilton remarked:

"There remains to be cursorily noticed, a disposition in our Chief Magistrate far more partial to our State Governments than to our National Government; to pull down rather than to build up our Federal Edifice; to vilify the past Administrations of the latter; to court *for himself* popular favour by artifices not to be approved, either for their dignity, their candour, or their patriotism." "Why are we emphatically and fastidiously told, that 'the States individually have the *principal* care of our *persons*, our *property*, and our *reputation*, constituting the great field of human concerns'? Was it to render the State Governments more dear to us—more the objects of affectionate solicitude? Nothing surely was necessary on this head. They are already the favorites of the people, and if they do not forfeit the advantage by a most gross abuse of trust, must, by the very nature of the objects confided to them, continue always to be so. Was it to prevent too large a portion of affection from being bestowed on the General Government? No pains on this score were requisite; not only for the reason first assigned, but for the further reason, that the more peculiar objects of this Government, though no less essential to our prosperity, than those of the State Governments, oblige it often to act upon the community in a manner more likely to produce aversion than fondness. Accordingly, every day furnishes proofs that it is not the spoiled child of the many. On this point the high example of the President himself is pregnant with instruction.

"Was it to indicate the supreme importance of the State Governments over that of the United States? This was as little useful as correct. Considering the vast variety of humours, prepossessions, and localities, which, in the much diversified composition of these States, militate against the weight and authority of the General Government, if union under that Government is necessary, it can answer no valuable purpose to depreciate its importance in the eyes of the people.

"It is not correct; because to the care of the Federal Government are confided directly, those great general interests on which all particular interests materially depend—our safety in respect to foreign nations—our tranquillity in respect to each other—the foreign and mutual commerce of the States—the establishment and regulation of the money of the country—the management of our national finances—indirectly

the security of liberty by the guarantee of a Republican form of Government to each State—the security of property by interdicting each State from emitting paper money, or from passing laws impairing the obligation of contracts—(from both of which causes the rights of property had experienced serious injury;)—the prosperity of agriculture and manufactures as internally connected with that of commerce, and as depending in a variety of ways upon the agency of the General Government. In fine, it is the province of the General Government to manage the greatest number of those concerns in which the provident activity and exertion of GOVERNMENT are of most importance to the people. And we have only to compare the state of our country antecedent to the establishment of the Federal Constitution with what it has been since, to be convinced that the most operative causes of public prosperity, depend upon that Constitution.

"It is not meant, by what has been said, to insinuate that the State Governments are not extremely useful in their proper spheres; but the object is to guard against the mischiefs of exaggerating their importance, in derogation from that of the general right. Every attempt to do this, is remotely a stab at the UNION of these States; a blow to our collective existence as ONE PEOPLE, and to all the blessings which are interwoven with that sacred FRATERNITY.

"If it be true, as insinuated, that our organization is too complicated,—too expensive, let it be simplified; let this, however, be done in such a manner, as not to mutilate, weaken, and eventually destroy our present system, but to increase the energy and insure the duration of our National Government, THE ROCK OF OUR POLITICAL SALVATION."

CHAPTER CLXI.

A MORE detailed view of the proceedings of Congress at this period, though instructive, will only be so far given, as it has a relation to Hamilton's life and writings.

During the earliest period of the legislation of this Government, while he presided over the Treasury, the mode of introducing subjects for consideration, was analogous to the practice of the British House of Commons, and to that of the Congress of the Confederation. Resolutions were usually submitted embodying the principles of the measure proposed to be acted upon. These, having been approved or modified, were referred to a committee, a majority of whom were favorable to it, to report by bill. Thus, each matter was, in the first instance, deliberately considered and settled; and it was the duty of the committee, informed of the sense of the whole body, to mature the details.

It has been seen, that, as soon as the Democratic party obtained a sufficient predominance in the House of Representatives, reports from the Secretary of the Treasury ceased to be called for. Standing committees* were then formed, to whom the office, previously confided to him, was intrusted of reporting propositions for the action of

* Standing Committees of Elections and of Claims were of earlier origin.

the House. To escape the influence which the thoroughly digested systems of Hamilton exerted over the Legislature, was the motive to this change, but it led to the introduction of another influence, much to be deprecated. The jealousy which induced the change was itself a sufficient guard against any undue influence on the part of an Executive officer. This did not exist towards committees of the House, who became, in effect, subordinate legislatures, pre-occupying, by artfully devised reports, the mind of the body, by which they were created; enlisted in support of their own recommendations; and so intimately connected with party interests, as to exclude, in a great degree, free and unbiassed discussion. Being appointed by the Speaker, who was chosen on party grounds, their Reports assumed a party complexion; and thus a direction was given to the legislation, unknown in any other free deliberative body. Another, and a more serious effect, was produced. Where the Speaker was of the party of the Executive, the Committees appointed by him became mere Executive organs—mere channels for conveying to the public, Executive opinions, often in direct opposition to the sentiments of a majority of the body in whose stead they acted. Nor would the pernicious consequences terminate here. It might happen, in critical moments, that a Speaker inclined to yield to public opinion would himself become the object of Executive patronage, and preside over and direct the deliberations of the Representatives, while, unknown to the public, he held a commission, the reward of his subservience.*

Another effect was at this time seen. Instead of devoting their attention to the precision of detail, necessary to carry into effect the fully discussed and clearly ex-

* An instance of this has occurred in the person of Andrew Stephenson.

pressed sense of the whole body, the reports of these committees were so rendered, that the principles were left to be discussed, and the details to be crudely adjusted in the House. The evils of this change, though sometimes, were less frequently perceptible during the latter part of the Federal administration, but, in the recent session, they were frequent, great, and glaring.

One of these instances was in the proceedings on the bill to repeal the Internal Revenue act; another in relation to the new Judiciary bill, when before the Senate; and a third in the discussion of the Act for the Redemption of the Debt.

During the latter discussion, this incident occurred. The undue influence of Hamilton over the action of Congress had been loudly denounced by the Democratic party. Yet, in the progress of this bill, great embarrassment having arisen among its supporters, several amendments were introduced in *the handwriting* of the Secretary of the Treasury. A more confiding majority could not be desired.

The incapacity thus publicly exhibited was the frequent theme of sarcastic exultation on the part of the Federalists. But an occurrence took place at this time, which excited deeper emotions. It was a deliberate insult offered by Jefferson, at his own table, to Commodore Truxton, a much distinguished officer of the navy, whose capture of the "Insurgent" and destruction of "La Vengeance" awakened the enthusiasm of the American people, confirmed the policy of the Federalists in establishing a navy, and gave earnest of its future glorious achievements. Stung to the quick, this dauntless sailor resigned his commission. He wrote to Hamilton, alluding to the indignities he had suffered, and remarked, "they can never forgive me for having taken and beaten French-

men."* Jefferson had denounced the victory as "Truxton's aggression."†

The weakness of the administration encouraged the Federalists to hope that ere long a change of opinion would be effected, and the great question with them was how to concentrate and direct the recently aroused reflections of the people. Morris had written to Hamilton from the Senate. He was followed by Bayard, who observed, "I perfectly agree in opinion with you as to the propriety of the proposed amendments to the Constitution. They are recommended strongly by both reason and experience. You have seen the patchwork offered to us, as a new Judiciary system. The whole is designed to cover one object which the party considered it necessary to accomplish—the postponement of the next session of the Supreme Court, in order to give the repealing act its full effect, before the Judges of the Supreme Court are allowed to assemble.

"Have you thought of the steps which our party ought to pursue on this subject? There will be a meeting to concert an uniform plan of acting or acquiescing, before Congress adjourns. We beg your opinion. You know the value we set upon it, and the influence it will have on our determination."

Hamilton replied:

"Your letter of the twelfth instant has relieved me from some apprehension. Yet it is well, that it should be perfectly understood by the truly sound part of the Federalists, that there do, in fact, exist intrigues in good earnest between several individuals, not unimportant, of the Federal party and the person in question, which are bottomed upon motives and views by no means auspicious to the real welfare of the country. I am glad to find, that it is in contemplation to adopt a

* Hamilton's Works, vi. 533.

† Jefferson to Madison. Jefferson's Works, iv. 323. March 4, 1800.

plan of conduct. It is very necessary, and, to be useful, it must be efficient and comprehensive in the means which it embraces, at the same time that it must meditate none which are not really Constitutional and patriotic.

"I will comply with your invitation by submitting some ideas, which, from time to time, have passed through my mind. Nothing is more fallacious than to expect to produce any valuable or permanent results in political projects, by relying merely on the reason of men. Men are rather reasoning than reasonable animals—for the most part governed by the impulse of passion. This is a truth well understood by our adversaries, who have practiced upon it with no small benefit to their cause. For, at the very moment they are eulogizing the reason of man, and professing to appeal only to that faculty, they are courting the strongest and most active passion of the human heart—Vanity! It is no less true, that the Federalists seem not to have attended to this fact sufficiently, and that they erred in relying so much on the rectitude and utility of their measures as to have neglected the cultivation of popular favour, by fair and justifiable expedients.

"The observation has been repeatedly made by me to individuals with whom I particularly conversed, and expedients suggested, for gaining good will, which were never adopted. Unluckily, however, for us, in the competition for the passions of the people our opponents have great advantages over us, for the plain reason that the vicious are far more active than the good passions; and that to win the latter to our side, we must renounce our principles and our objects, and unite in corrupting public opinion, till it becomes fit for nothing but mischief. Yet, unless we can contrive to take hold and carry along with us, some strong feelings of the mind, we shall in vain calculate upon any substantial or durable results. Whatever plan we may adopt, to be successful, must be founded on the truth of this proposition. And, perhaps, it is not very easy for us to give it full effect, especially not, without some deviations from what, on other occasions, we have maintained to be right.

"But in determining on the propriety of the deviations, we must consider whether it be possible for us to succeed, without, in some degree, employing the weapons which have been employed against us; and whether the actual state and future prospects of things be not such as to justify the reciprocal use of them. I need not tell you, that I do not mean to countenance the imitation of things intrinsically unworthy,

but only of such as may be denominated irregular; such as, in a sound and stable order of things, ought not to exist. Neither are you to infer that any revolutionary result is contemplated. IN MY OPINION, THE PRESENT CONSTITUTION IS THE STANDARD TO WHICH WE ARE TO CLING. UNDER ITS BANNERS, BONA FIDE, MUST WE COMBAT OUR POLITICAL FOES, REJECTING ALL CHANGES, BUT THROUGH THE CHANNEL ITSELF PROVIDES FOR AMENDMENTS.' By these general views of the subject have my reflections been guided. I now offer you the outline of the plan which they have suggested. Let an association be formed, to be denominated 'The Christian Constitutional Society.' Its objects to be, 1st. The support of the Christian Religion. 2d. The support of the Constitution of the United States.

"ITS ORGANIZATION.

"1st. A Directing Council, consisting of a President and twelve members, of whom four and the President to be a quorum.

"2d. A Sub-directing Council in each State, consisting of a Vice-President and twelve members, of whom four with the Vice-President to be a quorum; and

"3d. As many societies in each State as local circumstances may permit to be formed by the Sub-directing Council.

"The meeting at Washington to nominate the President and Vice-President together with four members of each of the Councils, who are to complete their own *numbers* respectively.

"ITS MEANS.

"1st. The diffusion of information. For this purpose, not only the newspapers but pamphlets must be largely employed, and to do this a fund must be created. Five dollars annually for eight years, to be contributed by each member who can really afford it, (taking care not to burthen the less able brethren,) may afford a competent fund for a competent time. It is essential, to be able to disseminate, gratis, useful publications, and whenever it can be done, and there is a press, clubs should be formed to meet once a week—read the newspapers—prepare essays—paragraphs, &c.

"2d. The use of all lawful means to promote the election of *fit* men; a lively correspondence must be kept up between the different Societies.

"3d. The providing of Institutions of a charitable and useful nature, in the management of Federalists.

"The populous cities ought particularly to be attended to. Perhaps it would be well to institute in such places, 1st. Societies for the relief of Emigrants. 2d. Academies, each with one professor for instructing the different classes of mechanicks in the principles of Mechanicks and Chemistry. The Cities have been employed by the Jacobins to give an impulse to the Country; and it is believed to be an alarming fact, that while the question of the Presidential election was pending in the House of Representatives, parties were organizing in several of the Cities, in the event of there being no election, to cut off the leading Federalists and seize the Government.

"The foregoing to be the principal Engine. In addition, let measures be adopted to bring as soon as possible the repeal of the Judiciary law before the Supreme Court. Afterwards, if not before, let as many Legislatures as can be prevailed upon instruct their Senators to endeavour to procure a repeal of the repealing law. The body of New England speaking the same language will give a powerful impulse. In Congress, our friends to propose little, to agree cordially to all good measures, and to resist and oppose all bad. This is a general sketch of what has occurred to me. It is at the service of my friends, for so much as it may be worth."

Not long after this letter was written, the annual election took place in New York. The dissensions of the Democrats gave hopes of success, and Hamilton was called upon to express his views of the situation of the Country, and of its policy. His address was of a general nature. He took a summary view of the leading measures and disposition of the Administration, as being excessively weak, impolitic, discouraging, and unconstitutional; tending to expose the country to intestine discord and open invasion. He avowed the opinion, that the peace in Europe, even if completed, could not be of long continuance; and that, in the event of a war, this country would probably be involved.* If such should be the

* Three years did not elapse before this prophecy began to be accomplished, and, in six more, the history of the war with Great Britain shows how it was fulfilled.

case, he inquired, what must be our situation, without money in the Treasury, and without revenue? He indicated the additional exposure now incurred from the recent cession of Louisiana to the French. He thought the present state of things, both at home and abroad, such, as to justify apprehensions, and urged the friends to good order, to stable government, to that system of measures which had so much elevated and strengthened the United States, to rally in its behalf.

The result in the City was favorable to the Federalists, but throughout the State, the Democratic party maintained their ascendancy.

His views of the state of public affairs are given freely in a letter to Rufus King, of the third of June:

"In your last, you ask my opinion about a matter delicate and important, both in a public, and in a personal view. I shall give it with the frankness to which you have a right; and I may add, that the impressions of your other friends, so far as they have fallen under my observation, do not differ from my own. While you were in the midst of a negotiation interesting to your country, it was your duty to keep your post. You have now accomplished the object, and with the good fortune, not very common, of having the universal plaudit. This done, it seems to me, most advisable that you return home. There is little probability that your continuance in your present station will be productive of much positive good. Nor are circumstances such as to give reason to apprehend that the substitute for you, whoever he may be, can do much harm. Your stay or return, therefore, as it regards our transatlantic concerns, is probably not material; while your presence at home may be useful in ways which it is not necessary to particularize. Besides, it is questionable whether you can long continue in the service of the present Administration, consistent with what is due, as well to your own character, as to the common cause. I am far from thinking that a man is bound to quit a public office, merely because the Administration of the Government may have changed hands. But, when those who have come into power, are undisguised persecutors of the party to which he has been attached, and study with ostentation to heap upon it every indignity and injury, he ought not, in my

opinion, to permit himself to be made an exception; or to lend his talents to the support of such characters. If, in addition to this, it be true, that the principles and plans of the men at the head of affairs tend to the degradation of the Government, and to their own disgrace, it will hardly be possible to be in any way connected with them, without sharing in the disrepute which they may be destined to experience.

"I wish I had time to give you a comprehensive and particular map of our political situation; but more than a rude outline is beyond my leisure, devoted as I am, more than ever, to my professional pursuits. You have seen the course of the Administration hitherto, especially during the last session of Congress; and I am persuaded you will agree with me in opinion, that it could hardly have been more diligent in mischief. What, you will ask, has been and is likely to be the effect on the public mind? Our friends are sanguine that a great change for the better has been wrought, and is progressive. I suppose, good has been done,—that the Federalists have been re-united and cemented; have been awakened, alarmed. Perhaps, too, there may be some sensible and moderate men of the opposite party who are beginning to doubt. But, I, as yet, discover no satisfactory symptoms of a revolution of opinion in the mass—'*informe, ingens, cui lumen ademptum.*' Nor do I look with much expectation to any serious alteration until inconveniences are extensively felt, or until time has produced a disposition to coquet it with new lovers. Vibrations of power, you are aware, are of the genius of our government. There is, however, a circumstance which may accelerate the fall of the present party. There is certainly a most serious schism between the chief and his heir-apparent; a schism absolutely incurable, because founded in the hearts of both, in the rivalship of an insatiable and unprincipled ambition. The effects are already apparent, and are ripening into a more bitter animosity between the partisans of the two men, than ever existed between the Federalists and Anti-Federalists. Unluckily, we are not as neutral to this quarrel as we ought to be. You saw, however, how far our friends in Congress went in polluting themselves with the support of the second personage for the Presidency. The cabal did not terminate there. Several men, of no inconsiderable importance among us, like the enterprising and adventurous character of this man, and hope to soar with him to power. Many more, through hatred to the chief, and through an impatience to recover the reins, are linking themselves to the new chief almost without perceiving it, and professing to have no other object than to make

use of him; while he knows that he is making use of them. What this may end in it is difficult to perceive. Of one thing only I am sure, that in no event will I be directly or indirectly implicated in a responsibility for the elevation or support of either of two men who, in different senses, are in my eyes equally unworthy of the confidence of intelligent or honest men.

"Truly, my dear Sir, the prospects of our country are not brilliant. The mass is far from sound. At head-quarters a most visionary theory presides. Depend upon it, this is the fact to a great extreme. No army, no navy, no *active* commerce; national defence not by arms, but by embargoes, prohibitions of trade, &c.; as little government as possible within; these are the pernicious dreams which, as far and as fast as possible, will be attempted to be realized. Mr. Jefferson is distressed at the codfish having latterly emigrated to the southern coast,* lest the people there should be tempted to catch them; and commerce, of which we have already too much, receive an accession. Be assured this is no pleasantry, but a very sober anecdote. Among Federalists old errors are not cured. They also continue to dream, though not quite so preposterously as their opponents. All will be very well, (say they,) when the power once gets back into Federal hands. The people convinced by experience of their error, will repose a permanent confidence in good men! *Risum teneatis?* Adieu. Yours Ever."

King, having accomplished the objects of his mission, returned not long after the reception of this letter, to the United States, thus making the vacancy which had so long been coveted by his adversaries.† Monroe was appointed to this vacancy.

* A codfish caught in the Potomac, alarmed Jefferson, who expressed an apprehension, that the Virginians might become a maritime people.

† Monroe to Jefferson. Richmond, 30 April, 1801. "On my return I found Col. Taylor and some other respectable characters attending the Courts, and from him and one or two others, who spoke of it, I understood it was in their opinion generally expected and wished, that our present Envoy at London should be withdrawn. *They think nothing is done unless that is done;* that as every calamity, foreign and domestic we have experienced from Great Britain, a person known to be friendly to her interests, acquainted with our interior, able to guide her councils and *plan her measures against us*, ought *not to be left*

Expressions of public confidence towards Hamilton, were, in the mean time, heard from every part of the United States. By the great body of reflecting men he was looked to as the source of correct opinions, and his influence was felt even in the inmost counsels of the Administration. This rising influence they deemed it of the utmost importance to depress; and the long exploded tale that he had, in the Convention, which framed the Constitution, proposed a monarchy, was revived. The charge was met by an express denial, and facts were given, previously mentioned, which throw much light on his course in that dignified body. Except on questions of great moment, his pen was now rarely employed, but he was often consulted. One of these involved important considerations as to the power of the Executive. It has been mentioned, that Callender, a pensioned pamphleteer of Jefferson, was convicted of sedition, fined and imprisoned. The fine was levied by the Marshal of the United States, and, after the term of his imprisonment had expired, a general pardon remitting all pains and penalties, incurred, or to be incurred, was granted. Doubts were suggested, whether the money having been received could be paid back? After consideration, the Attorney-General, then acting as Secretary of State, gave it as his opinion, that, before a fine is paid into the Treasury, a pardon remits and restores it to the party, and an order was given

there under the present Administration." This letter, in Monroe's autograph, is stated not to have been sent. Giles also wrote to Jefferson, from the same place, June 1, 1801. "The ejected party is now almost universally considered as having been employed in conjunction with Great Britain, in a scheme for the total destruction of the liberties of the people. * * * The continuation of Mr. King in London, it is apprehended, may be attended with unpleasant effects." He then urged an absolute repeal of the whole judiciary system, terminating the present officers, and creating an entire new system.

to the Marshal to "restore the money," which was done. Hamilton was clearly of the opinion, that the President has no power to restore a fine once levied—that the people of the United States when they adopted the National Constitution, not only directed, that all its Executive powers should be vested in a President, but they defined and limited those powers in the Instrument itself, that no power can be legally exercised by him unless given by express provision, or resulting by fair construction. He was no advocate for the diminution of those powers, nor by a forced inference would he abridge the salutary prerogatives of the Executive, which he considered essentially necessary to the welfare and happiness of the people, but he was rigidly tenacious of the principle by which those powers were to be tested. "WE ARE TO BE GOVERNED," he said, "BY THE CONSTITUTION, AS WE FIND IT, NOT AS IT MIGHT BE MODIFIED." No express provision authorized the Executive to order the restitution of a fine, and thus to *divest* the United States of moneys legally vested by a payment to one of their officers for their use. Did any such power exist by fair implication? This reduced the inquiry to the single consideration, whether the power to *pardon* offences *necessarily* implies a power of restitution? In England the Crown may pardon, not only crimes and misdemeanors, but debts; and by a separate and distinct prerogative may award restitution of goods and chattels, or lands forfeited, but the power of the President is expressly limited to granting "reprieves and pardons for offences against the United States, except in cases of impeachment."

"In England, fines constitute part of the revenue of the Crown, for the *sole use* of the KING. In this country fines are not paid into the exchequer for the use of the President, but into the Treasury for the *use* of the UNITED

STATES." "The theory of our Government," he said, "never once contemplated a power in the Executive over the Treasury, *in any shape*. And this is the material distinction, in reference to this subject, between the King of Great Britain and the President of the United States.

"But the power of the King was so far limited, that, where the subject or subjects generally have an interest in the fine,* there the Crown cannot interpose to order restitution, though the fine had not been levied.' The United States having the sole interest in the penalty, the President can have no right to restore it, or in any way interfere with it.

"The fine when levied is a vested part of the National revenue, and subject only to the disposition of Congress; the Constitution having expressly enjoined that, 'no money shall be drawn from the Treasury, but in consequence of appropriations made by law.' Stronger language could not have been used to guard the public property."

The distinction, that the money was yet in the hands of the Marshal, Hamilton regarded "as one which would render all the provisions of the Constitution nugatory; would defeat its preventive wisdom, and would render the President the absolute and uncontrollable Governor, if not proprietor, of all the public revenues. If it is law, to proceed as he has done in this case, he may cancel all the bonds for customs, issue his warrants to Collectors, intercept and dispose of all the public moneys before they are lodged in the Treasury."

It was in the next place shown, that a charter of Pardon, without words of restitution, could not operate to

* "The *Crown's Share* only of a forfeiture is pardoned by an act of general pardon." Temp. Ann. Parker 290. & 1 Salk. 333–5. Cro. 31; also Str. 530. 1272.

restore the money. Thus, the President in remitting the fine, had assumed a prerogative unknown to the Constitution; and in his charter of pardon had not made use of legal terms sufficient for his purpose; and a daring attempt is made by one of his officers to ascribe to an official act of the Executive an effect directly in the face of the law.

It will be remembered that Jefferson thus violated the Constitution, and usurped a power greater than that of any limited Monarch of Europe, to purchase the suppression of a menaced disclosure of his relations with a foreign hireling, the traducer of his predecessors.

The usurpation was committed, but its object was not attained. The correspondence of Jefferson shows how he writhed at this time under the exposures of Callender. Rankling with disappointment at the disregard of his claims for office, he returned to Virginia, and there made public the letters addressed to him by Jefferson.

The first of these letters commenced with an apology for his delay of a few days in answering a communication of Callender. It informed him that his agent was directed "to pay him Fifty Dollars on account of the Book he was about to publish," with a request he should "send him two or three copies and the rest *only* when he should ask for them." It assured him, that "the violence which was meditated against him lately had excited a very general indignation in that part of the country—" and, to prompt his libels against Adams, informed him that "the delivery of Robins to the British excites much feeling and inquiry." This extraordinary epistle concluded with the assurance "of every wish for his welfare, and of his great regard."

A second letter from Jefferson to Callender acknowledged a recent communication, then gave the information

requested on certain points;—and, in order to escape remark, enjoined upon him secrecy as to the source of it, and suggested that a false representation should be made on that subject, for the purpose "of keeping himself out of the way of calumny." It then proceeded "to thank him for the *proof sheets* he inclosed to him," observing, "such papers cannot fail to produce the *best effect.** They inform the thinking part of the Nation, and these again supported by the tax-gatherers as their vouchers, set the people to rights. You will know from whom this comes *without a signature:* the omission of which has been rendered almost *habitual* with me by the curiosity of the Post-offices."

The "Proof sheets" inclosed were those of a pamphlet entitled "The Prospect before us." After the first part had been put to press, a second remittance, of the same amount as the previous one, was sent to the author by the same person. The last of these letters was written when Jefferson was Vice-President, and at the moment when an Insurrection to prevent the collection of these taxes was showing itself in Pennsylvania.

The work thus patronised commenced with a bold attack upon the Constitution, and upon the Senate, which had been the object of hate in Virginia, to whose people the volume was addressed. Her odious prejudices against New England were flattered, and the eastern States were denounced as wishing to lay the foundation of "an absolute monarchy." Passing from the Federal system to its

* Yet Jefferson writes to Mrs. Adams afterwards—(Jefferson's Works, iv. 23) "With respect to the calumnies and falsehoods which writers and printers at large published against Mr. Adams, I was as far from stooping to any concern or approbation of them, as Mr. A. was respecting those of Porcupine, &c. I knew myself incapable of that base warfare—that dirty work." See Jefferson's Works, i. Sept. 6, 1799. ii. Oct. 6, 1799.

supporters, the lesser leaders of that party were first successively the objects of his calumnies, which increased in grossness until they reached Washington and Hamilton. Washington was charged with the "violation of his oath to preserve the Constitution;"* with having admitted himself to have been "twice a traitor;"† with having authorized the robbery and ruin of the remnants of his own army; with corruption;‡ with "a perfidious desertion of France;"§ with "the most audacious usurpation and despotism;"‖ Adams was accused of "murder,"¶ and Hamilton held up to "execration."

Though Jefferson had professed his attachment to the Constitution, had lauded Washington, had commended Adams in his addresses to the public,** and had in private expressed to him his personal regard, he is here seen covertly inculcating hostility to the Constitution, exciting to a severance of the Union, and abetting a foreign hireling in his foul defamations. These calumnies were written under the roof of a senator of the United States, founded on information derived from the confidential friends of Jefferson, *and paid for by him.*

When prosecuted for these libels, Jefferson even deemed him worthy of the protection of Virginia, and thus wrote to Monroe, then Governor:†† "I think it *essentially just* and *necessary* that Callender should be substantially defended. Whether in the first stages, by publick interference or private contribution, may be a question. Perhaps it might be as well that it should be left to the Legislature, who will meet in time, and before whom you can lay the matter so as to bring it before them. It is become peculiarly their cause, and may fur-

* Page 12. † 16, 19. ‡ 34. § 97. ‖ 104. ¶ 84.

** See his address on his installation as Vice-President.

†† May 26, 1800.

nish them with a fine opportunity of showing their respect to the Union, and, at the same time, of doing justice in another way to those whom they cannot protect without committing the public tranquillity."

The interval of a year had made a great change in the relations of these men. Jefferson had attained his end by a system of detraction. Callender, the chief instrument, claiming his reward, was only an object of apprehension. On the twenty-sixth of May, eighteen hundred and one, Jefferson again wrote to Monroe: "To take from Callender all room for complaint, I think, with you, we had better refund his fine by private contributions. I inclose you an order on Gibson and Jefferson for fifty dollars, which, I believe, is one-fourth of the whole sum." Three days after, he again wrote to him: "Callender is arrived here. He did not call on me, but understanding he was in distress, I sent Captain Lewis, my private secretary, to him with fifty dollars, to inform him we were making some inquiries as to his fine, which would take a little time, and lest he should suffer in the mean time, I had sent him," &c. "His language to Captain Lewis was very high toned. He intimated that he was in possession of things which he could and would make use of in a certain case—that he received the fifty dollars, not as a charity, but a due—in fact, as hush money, that I knew what he expected, viz., a certain office,* and more to this effect. Such a misconstruction of my charities puts an end to them forever. You will, therefore, be so good as to make no use of the order I inclosed you. He knows nothing of me which I am not willing to declare to the world myself."

Driven to excuses, Jefferson now writes: "I consid-

* Postmaster at Richmond.

ered him as a man of science, fled from persecution, and assured my friends of my readiness to do whatever could serve him. This led to aids and personal interviews." "No man wishes more to see his pen stopped, but I considered him still as a *proper* object of benevolence. The succeeding year he again wanted money to buy paper for another volume. I made his letter, as before, the occasion of giving him *another fifty dollars*. He considered these as proofs of my approbation of his writings, when they were *mere charities*, yielded under a strong conviction that he was injuring us by his writings."* Pressed by Callender's threats, he promised copies of all his correspondence with him. This promise he evaded, stating that he could not find it; and Callender supplied the hiatus by printing the originals.

Callender's disclosures, though chiefly directed against Jefferson, also embraced Madison. Intent on revenge, and not to be silenced, he announced his determination to make public the sources whence he derived the materials for his calumnies, menacing the exposure of Madison, Monroe, Giles, and other leading Virginians. An attempt was then made to silence him by an arrest, made by Callender's late counsel in his defence to the prosecutions of him for libels, now the District-Attorney of Virginia, recently appointed by Jefferson, to extort from him security not to publish any libels. As this precipitate procedure would have brought out the truth, it was not approved. Callender did not live to accomplish this vile betrayal of his secrets, being drowned, as was stated, in a fit of intemperance.

Some of the charges against Jefferson deeply affecting

* Jefferson's Works, iii. 494, to Monroe, July 15, 1802.

his character, were wholly of a personal nature.* These horrible, shocking exposures, Hamilton wholly disapproved; and caused a publication to be made expressing his disapprobation of the republication of matter of this kind, declaring "his sentiments to be averse to all personalities, not immediately connected with public considerations,"† proudly overlooking the outrage this pensioned tool of Jefferson had committed against himself.

While much indignation was aroused in the public mind by these extraordinary exposures, Thomas Paine arrived in the United States. He proceeded to the seat of Government; where, through the official Gazette of the Administration, he issued a series of essays, teeming with slanders upon Washington and upon the Federal party. But, enfeebled by age and vice, his pen had lost its power. Disappointed of the purpose for which he had invited him back to this country, Jefferson suffered him to repair in neglect to New York, in the vicinity whereof he dragged out a wretched existence among the few low infidel followers, whom his loathsome habits and gross inebriety did not repel.

A short time only elapsed when Jefferson is exhibited, by himself, in broad condemnation of the Press. When he saw its great power employed as a mean to overturn a government by violence, and to deliver an excitable, injured people to all the horrors of Revolution, he has been beheld, avowing, "Were it left to me to decide, whether we should have a Government without newspapers, or newspapers without a Government, I should not hesitate to prefer the latter." He has been seen ascribing the se-

* Jefferson's Life, by Tucker, ii. 120. Dewitt's Jefferson. "Sa vie et sa Correspondence." Part ii. 34. Paris. In "la Revue des deux Mondes."

† Evening Post, Sept. 29, 1802.

curity of American liberties to the influence of his National Gazette. All soon is changed. He is in power and the object of exposure. "Nothing," he wrote, "can *now* be believed which is seen in a newspaper. Truth itself becomes suspicious by being put into that polluted vehicle." * * * "The man who never looks into a newspaper is better informed than he who reads them; inasmuch as he who knows nothing is nearer to truth than he whose mind is filled with falsehoods and errors."*

* Jefferson's Works, v. 92. Jefferson to Norvell, June 11, 1807.

CHAPTER CLXII.

ERE the last of Paine's letters had dried from the press, the second Session of the Seventh Congress commenced, and Jefferson showed himself for a time, a changed man. Nothing could exceed the inflation immediately following his elevation to the Presidency. No theme was then beyond his reach—no abstract suffering beneath his sympathies. He was for "simplifying the *Christian Philosophy*." He would "have no priests, and therefore no schisms." Religion was thenceforth to be a thing of science—History an affair of fancy and of faith.* He was unwilling "to pronounce on the hypothesis of a transmigration of souls," it was not a subject of "physical knowledge," and "Rev-

* Jefferson's Works, iv. 438, ed. 1854. Jefferson to Joel Barlow, author of "The Columbiad," a wordy poem. "Mr. Madison and myself have cut out a piece of work for you, which is, to write the history of the United States *from the close of the War* downwards. *We are rich ourselves in materials*, and can open all the public archives to you; but your residence here is essential, because a great deal of the knowledge of things is *not on paper*, but *only within ourselves* for *verbal* communication. John Marshall is writing the Life of General Washington from his papers. It is intended to come out just in time to influence the next Presidential election. It is written, therefore, principally with a view to *electioneering purposes*. But it will consequently be out in time to aid you with information, as well as to point out the *perversions of truth* necessary to be rectified. Think of this and agree to it." Barlow did not "agree" to it.

elation had chosen to leave it in the dark." To discharge the gospels of the mystery with which the apostles had "enshrouded" them, he framed a travestie of them for himself. New England, which had resolutely refused him her vote, cherished a large body of clergy. "The Ægis of government, and the temples of religion and of justice," he wrote, "have all been prostituted there to toll us back to the times when we burnt witches." "The barbarians really flattered themselves they should be able to bring back the times of Vandalism, when ignorance put every thing into the hands of power and priestcraft."* Oscillating between light and shade, between pathos and rapture, his delectation was to descant on exhumated bones and revivified liberties; and he beheld, as he stated, "with great grief, venerable patriots, retired and weeping in silence, over the rapid subversion of those principles, for the attachment of which they had sacrificed the ease and comforts of life, and rejoiced they had lived to see him *revindicate* their rights."

But now was seen, by Jefferson's deportment, how deeply his vanity had been pierced. He drooped under the recent exposures by Callender, which had impeached, not only his political character, but his private integrity, for he stood before the world a convicted calumniator—a pensioner of libels. His air was more quiet; and the subdued tone of his message, when contrasted with that which preceded it, bespoke the humiliations he had undergone. In this State paper, the insidious contrast between his policy and that of his predecessors, which, with an entire disregard of official dignity, had marked his previous message, was repeated, though not three weeks had elapsed, since he made again this acknowledgment of the merits

* Jefferson's Works, iv. 373, 375, 390.

of their policy, yet accompanied with vituperations. "The path we have to pursue is so quiet, that we have nothing scarcely to propose to our legislature. * * * If we can prevent the Government from wasting the labors of the people, under the pretence of taking care of them, they must become happy. Their finances are now under such a course of application as nothing can derange, but war or federalism. *The gripe of the latter has shown itself as deadly as the jaws of the former.*"* But no more appeals to State prejudices were heard. These had been the ladders of his ambition. Now, ascended to the coveted height, he viewed and treated the General Government as his own estate. Instead of these appeals, he would seem to have felt Hamilton's rebuke, and to have adopted, with all the zeal of a pupil of that school, the leading maxims of the Federal policy. "To cultivate peace and maintain commerce and navigation in all their lawful enterprises, to foster our fisheries as nurseries of navigation, and for the nurture of man; and protect the manufactures adapted to our circumstances; to preserve the faith of the Nation by an exact discharge of its debts and contracts; expend the public money with the same care and economy we would practice with our own, and impose on our citizens no unnecessary burthens; to keep, in all things, within the pale of our Constitutional powers, and cherish the Federal Union, as the only rock of safety," —"these, fellow-citizens," he said, "are the landmarks by which we are to guide ourselves in all our proceedings. By continuing to make these our rule of action, we shall endear to our countrymen the true principles of their Constitution, and promote a union of sentiment and of action equally auspicious to their happiness and safety."

* Jefferson's Works, iv. 453, ed. 1854.

Having expressed his desire, to "produce a fair and adequate reciprocity" of trade, he adverted briefly to the recent cession of Louisiana by Spain to France, as a measure, which, "if carried into effect, will make a change in the aspect of our foreign relations." The warfare with Tripoli was alluded to; a recent convention with Georgia mentioned; and information given of an increase of territory by purchase from the Indians on the Wabash. The fiscal condition of the country was more dwelt upon. The increase of the revenue, not only in amount but in ratio, he observed, had enabled a payment from the Treasury of "upwards of Eight Millions of Dollars, principal and interest of Debt, exclusive of one million paid by the sale of Bank Stock," leaving in hand a sum of "four and a half millions" further to be applied. "When," he added, "effects so salutary result from the plans you have already sanctioned, when merely, by avoiding *false* objects of *expense*, we are able, without a direct tax, without internal taxes, and without borrowing, to make large and effectual payments towards the discharge of our public debt, and the emancipation of our posterity from that mortal canker, it is an encouragement, fellow-citizens, of the highest order, to proceed as we have begun in substituting economy for taxation, and in pursuing what is useful for a nation placed as we are, rather than what is practiced by others under different circumstances."*

* John Adams to Jefferson, July, 1813, Quincy. "Your character in history may easily be foreseen. Your administration will be quoted by Philosophers as a model of profound wisdom—by Politicians, as weak, superficial, and short-sighted. Mine, like Pope's woman, will have no character at all. The *impious idolatry to Washington* destroyed all character. His legacy of ministers was not the worst part of the tragedy. Though, by his own express confession to me, and by Pickering's confession to the world, in his letters to Sullivan, two of them, at least, were foisted upon him by necessity, because

The only objects of new expenditure indicated, were, "the procuring some smaller vessels for the Mediterranean service, and the building of Dry Docks at Washington for the preservation of the Navy,"* to be raised by "running water."

Among the criticisms of the opposition, on this Message, the attempt to cajole and flatter the people was much censured.† With what truth, they inquired, are we told of "peace and friendship abroad," when Spain, by an infraction of the treaty, has occluded the commerce of the Mississippi, that great Artery of the West? What evidence is it of "friendship abroad," that another powerful nation has, without consulting us in any shape, bargained for an important tract of our Continent, immediately to colonize it? a measure so important as to threaten "a change in the aspect of our foreign relations." Why declare to the people, that their prosperity resulted from their "managing their own affairs in their own way, and for their own use, unembarrassed by too much regulation, unoppressed by fiscal exactions"? Has any change in this respect been introduced? Have not their skill and industry always been free? Has the incidental protection, arising from the duties imposed on commerce and navigation, been withdrawn? Why are the recent *pro-*

he could get no other. The truth is, Hamilton's influence over him was so well known, that no man fit for the office of State or War, would accept either. He was driven to the necessity of appointing such as would accept. And this necessity was, in my opinion, the real cause of his retirement from office; for you may depend upon it, that retirement was not voluntary."

* "Frigates and Seventy-fours," Jefferson writes in 1815, "are a sacrifice we must make, *heavy as it is*, to the prejudices of a part of our citizens."

† John Adams publicly charged, "There is little cause of apprehension for the principles of our glorious ancestors," (maintained against Laud and the Court of Charles the First,) "from the feeble efforts of *libertines* who are *conspiring* and *intriguing* against them."

hibitory duties laid by France on American importations *so covertly* referred to, under the phrase, "We find *in some parts* of Europe monopolizing discriminations, which, in the form of duties, tend effectually to prohibit the carrying thither our own produce in our own vessels"? On what ground, the hope expressed that "existing amities would produce a fair and adequate reciprocity," when the settled policy of France forbade such hope? when, instead of the bold and erect attitude, which, on the restoration of peace, ought to have been taken by the United States, their counsels, solely governed by a regard to temporary popularity, exhibit a narrow weakness, sure to invite aggression on the first outbreak of war,—an event near and to be provided for. And how far justifiable the assertions made by the Democratic leaders, that Britain had gone, in her countervailing duties, "beyond the legal limits of the treaty,"* when in fact she had stopped far short of the limits of that compact.† With what wisdom are the discriminating duties, once, in the favorite theory of the Democratic leaders, proposed to be carried to an excess, now to be repealed? Was it, as alleged, that they had "operated like a charm in time of war, but were not calculated for peace"? Had not the European war occurred, it was asserted, foreign tonnage would not have been known in our ports. By turning neutral vessels into our trade, in order to avoid the aggressions of the belligerents, that tonnage was encouraged, for which, in peace, the discrimination would have insured an ample

* Giles on Edward Smith's resolutions to repeal the discriminating duties.

† Instead of laying 10 per cent. additional on the duties paid by her own importers, as by treaty she might have done, that being the rate of our alien duties, the duty actually laid by her on the important export, Tobacco, was only seven-tenths of a farthing per pound, or not quite *one* per cent. Similar moderation was seen as to other American exports.

substitute, in the American Shipping. That discrimination, now decried, had insured to us the carriage of the greater part of our imports, and of ten-twelfths of our exports. Referring to the fiscal topics of the Message, it was asked, with what regard to character, has the Chief Magistrate spoken of the ability to discharge Eight Millions of debt, "without a direct tax, without internal taxes"? Do not the uncollected balances of those very taxes constitute* one-sixth of the resources, which, in the report from the Treasury Department, are applicable to other demands, and enable the residue to be applied to the discharge of the debt? Why the ambiguous language as to "the receipts of external duties for the last twelve months," but to induce the belief they occurred within the year? And why his loose assertion as to the "greatest ratio of increase"? These receipts were a part, and a large part, of the products of importations in the autumn of eighteen hundred one, and those then ordered for the ensuing spring; and were made on an expectation of the continuance of the War. The Treasury Report† showed, that, comparing the last quarter, when the effect of the peace was felt, with that of the preceding quarter, there had been a diminution of more than a million. But, with resources so ample, and in providing which, the present Administration had no part, what had been the conduct of the Head of the Treasury Department? In the single operation, the first of any moment under the new Administration—the remittances to pay the foreign debt—there had been a positive loss of a sum of consid-

* State Papers, Finance, ii. 5, 6.

† Gallatin's Report to the Senate, December 20, 1802, states five millions of dollars in the Treasury; $400,000 uncollected arrears of the *direct Tax;* and nearly $700,000 of the uncollected arrears of the *Internal taxes*, in the whole *six millions*, as applicable to the debt to Great Britain and to Maryland.

erable magnitude. Had any similar loss been incurred under the management of either of his predecessors? A more serious charge was made, that the fund of seven millions three hundred thousand dollars, set apart by an act of the previous Session to the discharge of the debt, had not been applied, as the law required; and a sale of part of the stock, belonging to the Government in the Bank of the United States, was shown to have been made under the alleged authority of a former Act of Congress, upon a contingency which had not arisen.

While these subjects were before the House, its attention was again called to the proposed amendment of the second article of the Constitution. Little interest was shown as to Hamilton's most important proposition, presented by Huger of South Carolina, for a division of the States into Electoral districts; but that which contemplated a designation of the Candidates for President and Vice-President was much debated. Both were postponed to the next Session. The expansive capacity of this form of Government was, at this time, seen in the addition to the Union of another State, bearing the name of the beautiful river which forms one of its boundaries—the State of Ohio, destined soon to become one of the most important members of this great Republic; but whose Constitution showed the Democratic opinions prevalent on the great Western frontier. It reduced the Executive power almost to a non-entity, elevating and enlarging that of the Legislature, giving to it the election of the Judges to hold office for a short term of years; thus destroying their independence, and that of all the other officers, with the exception of sheriffs and coroners, who, with the Governor, were to be chosen by the suffrages of all the people, residents for a year, and who had been charged with a tax.

A proposal was again made to abolish the Mint, but more in compliance with former pledges, than from an earnest purpose. It was again resisted by the Federalists, and the existence of the Mint was prolonged for a term of five years. The recommendation of a Dry Dock, at the seat of Government, sufficient for the protection of twelve frigates, was considered in committee; but doubts being entertained as to the measure, a reference was ordered to ascertain "its usefulness and propriety." For this delay the President was soothed by the success of a favorite scheme. In imitation of a project proposed by Paine to the Government of France for the invasion of England, and perhaps suggested by him to Jefferson, the construction of *Gunboats* was authorized.* The submarine Torpedo was a matter of later thought.

Another subject of the Message, which, it is seen, gave rise to great diversity of opinion—the repeal of the discriminating tonnage duties, had frequently occupied the counsels of Congress. Much zeal was exhibited in its favor, but the mercantile interests opposed it, and were supported by the industrial classes connected with Ship-building.

An overture was made to Great Britain, and she repealed her countervailing duties in expectation of similar legislation here. A report to this effect was made in Congress, but the subject lingered through the Session. Probably to cover the retreat of the President from his own proposition, now that so great public dissatisfaction was manifested, a condition was annexed to the bill, requiring what was not expected to be granted, the opening

* One hundred and seventy-six Gunboats were built, the cost exceeding a million and a half dollars, all soon after abandoned to decay as utterly worthless.

of the Colonial trade of the West Indies, as an equivalent for the proffered repeal.

The Committee was finally discharged from its consideration, and the subject was not resumed. The uniform advocacy of Freedom of trade has been claimed as the peculiar merit of the Democratic party; but an accurate view of the past shows this claim unfounded. Fickleness of purpose on this, as on most great questions, had been its characteristic.

Important as some of these matters were, they were justly regarded, at the time, as of subordinate moment. The fate of Louisiana was the great, the paramount question of public interest. Though the views of France had been suspected, no positive intelligence of its cession by Spain, (which took place the day after France concluded her late treaty with this Country) reached it, till about the time of the receipt of a letter by Hamilton, addressed to him from Paris.* Feeling the immense importance of this matter, and willing to show to the administration his sense of it, he immediately enclosed this letter to the Secretary of State.†

Hamilton now watched the course of the administration with intense solicitude; and rising above all party views, gave his entire personal influence in support of the acquisition of that vast, invaluable territory.

Rumors of this cession reaching London a few days after the date of Hamilton's advices, the American Ambassador communicated them to Madison on the twenty-ninth of March, eighteen hundred and one. "What effect," he remarked, "a plain and judicious representation upon this subject, made to the French Government by a

* March 23, 1801. Constable to Hamilton. Hamilton's Works, vi. 524.

† May 20, 1801. Hamilton to Madison.

Minister of talents and entitled to confidence, would be likely to have, is quite beyond any means of judging which I possess; but, on this account, as well as others of importance, it is a subject of deep regret that we have not such a character as this at Paris." On the first of the following June, he apprized him, that this change of Masters was received by the British Government with much reluctance, as enabling France "to extend her influence and perhaps her dominion up the Mississippi, and through the lakes even to Canada," thus "realizing the plan, to prevent the accomplishment of which, the seven years' war took place," and for the important consideration, the dangers to which her West India Colonies would be exposed.

Several months elapsed, but no certain information was obtained by the Cabinet on this subject. Madison at last, in a letter* hastening the departure of Livingston, instructed him to dissuade the acquisition, if not made, if made, that "nothing be said or done which will unnecessarily irritate our future neighbors, or check the liberality which they may be disposed to exercise in relation to the trade and navigation through the mouth of the Mississippi." In the next place, he asked him to try to induce France to cede the Floridas, or at least West Florida—if they yet belonged to Spain, to make a similar effort with her.

It was the policy of France to keep the United States in the dark until she was prepared to act. The first Consul, intent on the aggrandizement of the French nation in every quarter of the globe, had resolved to re-establish its Colonial power in the West Indies. Guadaloupe had submitted to her arms, and the wasting of her troops in

* Sept. 28, 1801.

the attempted recovery of St. Domingo, had alone delayed the military occupation of New Orleans, as the second step in the enlargement of her Empire on the American Continent, which he saw, in the future, might be extended to Cape Horn.

The United States could, if England should acquiesce, present the only barrier, and from them, in this new era of their politics, he felt assured that nothing was to be apprehended. Nor was Jefferson, himself, unaware of the light in which he stood. "It is well," he wrote to Livingston, "however, to be able to inform you generally, through a safe channel, that we stand *completely* corrected of the error, that either the government or the nation of France has any remains of friendship for us. The portion of that country which forms an exception, though respectable in weight, is weak in numbers. On the contrary, it appears evident, that an unfriendly spirit prevails in the most important individuals of the Government, towards us."

A private letter from Jefferson, of the eighteenth of April, eighteen hundred and two, to the American Envoy at Paris, shows that Buonaparte was not mistaken, and places him in an aspect, from which mockery would not remain aloof, were it not for the gravity of the interest to which it relates. "It completely reverses," he wrote, "all the political relations of the United States, and will form a new epoch in our political course. Of all nations of any consideration, France is the one, which, hitherto, has offered the fewest points on which we could have any conflict of right, and the most points of a communion of interests. From these causes, we have ever looked to her as *our natural friend*, as one with which we could never have an occasion of difference." He had pronounced in the Cabinet of Washington, in seventeen hundred and

ninety, England to be "*our natural enemy*," and he had treated her as such. Now he proceeds—"There is on the globe one single spot, the possessor of which is *our natural and habitual enemy*. It is New Orleans. * * * France, placing herself in that door, assumes to us an attitude of defiance." He then points to "the union of two nations, the United States and England, and the holding the two continents of America in sequestration for the common purposes of the united British and American nations," as the inevitable consequences. "This is not a state of things, we seek or desire." * * * "It is not from a fear of France that we deprecate the measure proposed by her." * * * "But it is from a sincere love of peace and a firm persuasion; that, bound to France by the interests and the strong sympathies still existing in the minds of our citizens, and holding relative positions which insure their continuance, we are secure of a long course of peace."

Having argued the little value of this acquisition to France, he adds—"If France considers Louisiana, however, as *indispensable for her views*, she might, *perhaps*, be willing to look about for arrangements which might *reconcile it to our interests*. If any thing could do this, it would be ceding to us the Island of New Orleans and the Floridas. This would certainly, in a great degree, remove the causes of jarring and irritation between us; and *perhaps* for such a length of time, as might produce other means of making the measure permanently conciliatory to our interests and friendships. It would, at any rate, relieve us from the necessity of taking immediate measures for countervailing such an operation by arrangements in another quarter." * * * "I pray you," he closed, "to cherish Dupont."*

* Jefferson's Works, iv. 431, ed. 1854.

Dupont de Nemours was a respectable native of France, residing in the United States. Seven days after his private letter to Livingston, Jefferson addressed a private letter to Dupont, of which he was the bearer, "to impress on the Government of France the inevitable consequences of their taking possession of Louisiana," and that the cession of New Orleans and of the Floridas would be but a palliation. It was in substance, a brief repetition of the language to Livingston, with this remarkable addition, as coming from the President of the United States to a foreign gentleman, though at the expense of a large portion of his own countrymen, to the disinterested patriotism of a part of whose leaders, he was indebted for the Presidency. "There is another service you can render. I am told that Talleyrand is *personally hostile to us.* This, I suppose, has been occasioned by the x, y, z history. But he should consider, that, that was the artifice of a party, willing to sacrifice *him* to the consolidation of their power. This nation has done him justice by dismissing them; that those in power are precisely those that disbelieved that story, and saw in it *nothing but an attempt to deceive our country;* that we entertain towards *him personally* the most friendly dispositions; that, as to the government of France, we know too little of the state of things there *to understand what it is,* and have no inclination to meddle in their settlement."* Had a daguerreotype been taken of Talleyrand's sardonic expression at the instant of receiving this message, what a history it would have told!

A confidential despatch of Madison to Livingston, six days later, of the first of May, shows how well founded was Jefferson's satisfaction with the friendship of France.

* Jefferson's Works, iv. 435, ed. 1854.

"The conduct of the French Government, in paying so little attention to its obligations under the treaty, in neglecting its debts to our citizens; in giving no answers to your complaints and expostulations, which, you say, is the case with those of other foreign ministers, also; and particularly in its reserve as to Louisiana, which tacitly contradicts the language first held to you by the Minister of Foreign Relations, gives tokens, as little auspicious to the true interests of France herself, as to the rights and just objects of the United States." He repeats the deprecations and expostulations of Jefferson, adding—"it would be a most precious acquisition; and that, as far as the terms could be satisfied, by charging on the acquisition itself, the *restitutions and other debts to* American citizens, great liberality would doubtless be indulged by this Government." If the past history of this country points to Madison, as being more than any other citizen of America, the cause of the wrongs inflicted on, and the contempt manifested towards it by France, this letter is pregnant of another fact. *With him originated the* proposition to barter "the restitutions and other debts due to American citizens" for the purchase of this vast domain, the payment of which, it has been the settled policy of his party to refuse to those citizens, thus despoiled.

After a perusal of these communications, who can deny that Livingston, in the following terms, truly depicts the impression which the previous conduct and the present policy of Jefferson and Madison, had made on the statesmen of France.

"I found the credit and character of our nation very low. They were considered as interested speculators, whose god was money. The features of our Statesmen, drawn from the caricatures in our newspapers, were viewed as real likenesses; and the Democracy of Amer-

ica was believed to be the mad Jacobinism of France. The President was considered, as among the most mad, because the head of the party." That Livingston should have embodied such language in a public despatch to the American Government, shows the estimation in which he held Jefferson and his Cabinet.* A despatch of Madison to Charles Pinckney, the American Minister at Madrid, of the eleventh of May, states "the denial of the cession" by Talleyrand, and his "refusal of any explanations;" and speaks of the "chances of obtaining a reversal of the transaction." He then proposes, if Spain should "retain New Orleans and the Floridas, the wish of the President that every effort and address be employed to obtain the arrangement by which the territory on the *east side* of the Mississippi, including New Orleans, may be ceded to the United States; and the Mississippi made a common boundary with a common use of its navigation for them and Spain;" offering "a *guaranty*" to Spain "of her territory beyond the Mississippi." Under the limited construction of the Constitution, which the opposition to the late treaty with Great Britain had urged of the treaty power, where would be found the power of giving such a guaranty? And if given, what might have been its consequences?

The advices of Livingston furnished no relief to the alarmed, anxious Cabinet, but confirmed the belief that France intended to occupy and to hold Louisiana. He wrote, on the twenty-eighth of May, that an expedition was preparing, which Bernadotte was to command—Collot to be second in command—Adet, prefect;—that the French maintained great reserve. No information could

* Randall, iii. 51, says: "Some other letters passed which are *not necessary* to be mentioned;" *omitting this letter.*

be obtained as to the extent of the purchase, as to their intentions, or when they would take possession, that the insincerity and duplicity practiced rendered it clear, that they apprehended opposition on the part of America, to their plans. "I wait impatiently," Livingston wrote, "some further instructions from you, those I have, in some sort, prohibiting such measures as may show any dissatisfaction on the subject, of which, however, I doubt the policy. The subject is so interesting as to induce us to *risk something* to defeat it."

Subsequently, he informed them, that by the recent treaty of Spain with France, "the cession had been made of *Louisiana generally.* The French, you know, have always extended it to South Carolina, and all the country on the Ohio!" He adds, "All that can be done here, will be to endeavor to obtain a cession of New Orleans, either by purchase, or offering to make it a port of entry to France, on such terms as shall promise advantages to her commerce." * * * "An arrangement of this sort, if they listen to it, would certainly be *beneficial* to both countries and *only hurtful to Britain.* If to this, we could add a stipulation, that she shall never possess the Floridas, but, on the contrary, in case of a rupture with Spain, and a conquest of them, cede them to us, our affairs in that quarter would stand as well as I could wish; and the *colonies that France might attempt to establish on the west side of the Mississippi would be too feeble to injure us.* I find them very anxious to have the ports of Pensacola and St. Augustine, as they dread our having command of the Gulf. I confess this appears to me no very important object, and if they would be content with these, and give us West Florida and New Orleans, even at a *large price*, we should not hesitate. I am sorry that you *have not communicated* to me what are precisely the utmost

limits of the sum I may venture to offer in cash or in our demands."*

The rising excitement of this country had, meanwhile, driven the Cabinet to authorize overtures for the purchase of New Orleans and the Floridas.† Livingston presented a memorial to Talleyrand, on the tenth of August, in order to prove that this colony would be neither commercially nor politically beneficial to France. Soon after presenting it, he wrote: "I yesterday made several propositions to the Minister on the subject of Louisiana. He told me frankly that every offer was premature;—that the French Government had determined to take possession first, so that you must consider the business absolutely determined on."‡

A subsequent despatch§ again urged Madison to be explicit. "I am at present," Livingston stated, "wholly unauthorized as to any offers that it would be proper to make; and we certainly do not expect to receive this Country, or any interest in it, as a *free gift*." A few days after, he wrote: "The Government will give no answer to my notes on the subject. They will say nothing on that of our limits or of our right under the Spanish Treaty. Clarke has been presented to General Victor, as a merchant from Louisiana. The General, probably, did not conceal his views, which are nothing short of taking exactly what they find convenient. We asked, what

* American Archives, Foreign Relations, ii. 519. July 30, 1802.

† Ibid. May 1, 1802. Madison to Livingston: "You will also pursue by *prudent means*, the inquiry into the extent of the cession; particularly, whether it includes the Floridas as well as New Orleans; and endeavour to ascertain the price at which these, if included in the cession, would be yielded to the United States."

‡ Ibid. September 1, 1802.

§ November 2, 1802.

they meant to do as to our right of *entrepot?* He spoke of the treaty as *waste paper.* * * * If you will look back to some of my letters on this subject, you will see my opinion of the necessity of strengthening ourselves by *force* and *ships at home,* and by *alliance* abroad. No prudence will, I fear, prevent hostilities ere long." *

This was the latest intelligence received from Paris before Congress reassembled. A copy, however, was, in the mean time, communicated to Madison, of a Proclamation issued by the Intendant of Louisiana, prohibiting "the deposit of American effects at New Orleans, stipulated by the treaty of seventeen hundred and ninety-five; and that the river" (Mississippi) "was also shut against the external commerce of the United States at that port." Madison, being thus advised, addressed an earnest despatch to Pinckney. He supposed this proclamation was the unauthorized act of the Intendant. He could not impute it to Spain. "The President expects, that the Spanish Government will neither lose a moment in countermanding it, nor hesitate to repair every damage which may result from it. You are aware of the sensibility of our Western citizens to such an occurrence. This sensibility is justified by the interest they have at stake. The Mississippi is to them every thing." †

The Message of Jefferson to Congress gave no intimation of the condition or terms on which the cession of Louisiana had been made by Spain. Were the rights reserved in the treaty with her, secured, or was all access to the Ocean cut off? Had the Government received any positive or official information of the interdiction of the Deposit by Spain? These were questions of immense,

* American Archives, Foreign Relations, ii. 519. November 11, 1802.

† Ibid, 527. November 27, 1802.

of immeasurable importance. The Administration was frightened and gloomy. Its partisans in Congress trembled. The Western people were indignant, ready to rise in arms. Total silence would not be endured; and, on the seventeenth of December, John Randolph, still the sanctioned leader in the House, and Chairman of the Committee on Ways and Means, moved a call on the President for information.

The reply communicated a copy of the order of the Intendant of Louisiana, closing the Mississippi, and interdicting a deposit of American effects. "In making this communication," Jefferson remarked, "I deem it proper to observe, that I am led by the regard due to the rights and interests of the United States, and to the just sensibility of the portion of our fellow-citizens more immediately affected by the irregular proceeding at New Orleans, to lose not a moment in causing every step to be taken which the occasion claimed from me; being equally aware of the obligation to maintain, in all cases, the rights of the nation, and to employ, for that purpose, those just and honorable means which belong to the character of the United States." The despatches from the Department of State were referred to.

The great interests at stake, it was believed by the Federalists, might require the prompt action of the Government. An immediate occupation of New Orleans, with a view to hold it by force, might be necessary; and the terms of the cession by Spain might fully justify a resort to force. She had stipulated, in case New Orleans was not continued as a place of Deposit, to assign an equivalent position on the banks of the Mississippi. The port of New Orleans was suddenly closed; had she fulfilled her stipulation?

The right to a place of deposit was a perfect right.

Redress for the injury by an immediate exertion of the National force was authorized by the law of Nations. To ascertain the actual state of this matter, a leading Federalist moved that the official documents as to this Cession be laid before the House, with a report explaining its conditions, under the usual reservation. This resolution was earnestly opposed by the Democratic party, and was rejected.

A letter from Hamilton to General Cotesworth Pinckney, written at this time, shows the impression the course of the Government had made upon him. It bears date the twenty-ninth of December, eighteen hundred and two:

"My Dear Sir:—A garden, you know, is a very usual refuge of a disappointed politician. Accordingly, I have purchased a few acres about nine miles from town, have built a house, and am cultivating a garden. The melons in your country are very fine; will you have the goodness to send me some seed both of the water and musk melon? My daughter adds another request, which is, for three or four of your paroquets. She is very fond of birds. If there be any thing in this quarter, the sending of which can give you pleasure, you have only to name them. As Farmers, a new source of sympathy has arisen between us; and I am pleased with every thing in which our likings and tastes can be approximated.

"Amidst the triumphant reign of Democracy, do you retain sufficient interest in public affairs to feel any curiosity about what is going on? In my opinion, the follies and vices of the Administration have as yet made no material impression to their disadvantage. On the contrary, I think the malady is rather progressive, than upon the decline in our Northern quarter. The last *lullaby* message, instead of inspiring contempt, attracts praise. Mankind are forever destined to be the dupes of bold or cunning imposture. But a difficult knot has been twisted by the incidents of the Cession of Louisiana, and the interruption of the deposit of New Orleans. You have seen the soft turn given to this in the message. Yet we are told, the President, in conversation, is very stout. The great embarrassment must be, how to carry on war without taxes. The pretty scheme of substituting

economy to taxation will not do here. And a war would be a terrible comment upon the abandonment of the internal revenue.

"Yet how is popularity to be preserved with the Western partizans, if their interests are tamely sacrificed? Will the artifice be, for the Chief to hold a bold language, and the subalterns to act a feeble part? Time must explain. You know my general theory as to our Western affairs. I have always held that the UNITY OF THE EMPIRE, and the best interests of our nation require, that we should annex to the United States all the territory east of the Mississippi, New Orleans included. Of course, I infer, that in an emergency like the present, energy is wisdom. Adieu, my dear Sir. Ever yours."

Pinckney, at the close of his answer, remarked:

"Does there not appear to be a great want of nerve and energy in the measures our rulers are adopting? They are not calculated to avoid war; and we shall have to encounter it in a shameful state of unpreparedness. Yet such is the infatuation of the people, that Anti-federalism certainly gains ground in this State, which can only exist by a strong Union and firm Government."

What to do Jefferson was wholly at a loss. The difficulty which he did not dare to meet, for energy implies and involves responsibilities, he resolved to parry. On the rejection of the resolution, calling for the official documents relative to the Cession of Louisiana, documents, which, if disclosed, would have called down upon him the wrath and contempt of the American people, the doors of the House of Representatives were closed, though his partizans had before proclaimed, that a 'government should have no secrets.' And then, after the knowledge that Spain had seized American vessels, imprisoned their seamen, and of the occlusion of the Mississippi, Resolutions were submitted by John Randolph, on the third of January,—"that this House receive with great sensibility the information of a disposition in certain officers of the Spanish government at New Orleans, to obstruct the nav-

igation of the river Mississippi, as secured to the United States by the most solemn stipulations;—that, adhering to the humane and wise policy which ought ever to characterize a free people, and by which the United States have always *proposed* to be governed; willing, at the same time, to ascribe this breach of compact to the unauthorized conduct of certain individuals, rather than to a want of good faith on the part of his Catholic Majesty; and relying with perfect confidence, on the vigilance and wisdom of the Executive, they will wait the issue of such measures, as that department of the Government shall have proposed, for asserting the rights and vindicating the injuries of the United States—holding it to be their duty, at the same time, to express their unalterable determination to maintain the boundaries and the rights of navigation and commerce through the river Mississippi, as established by existing treaties."

This procedure did not satisfy the Federalists. Three resolutions were moved by Roger Griswold of Connecticut.—The first was, in substance, a repetition of the last resolution of the Congress of the Confederation, moved by Hamilton,—"that the people of the United States are *entitled* to the free navigation of the river Mississippi." The second declared, that this navigation had been recently obstructed; and the third called for the appointment of "a committee to inquire, whether any, and if any, what *Legislative* measures are necessary to secure to the people of the United States, the free navigation of the Mississippi."

The policy of the Democratic party, in its dominance, was to concentrate all power in the President, as its Chief. These resolutions, looking to Legislative action, were wholly at variance with this policy. They were postponed, some of the Western members, disregarding party

lines, voting with the Federalists.* The resolutions moved by Randolph were then passed.

At the same time, the policy of Hamilton, so vehemently denounced in the instance of the mission of Jay to London, was followed, though with a party design. Recent as was the embassy of Livingston, Monroe, whose term of office as Governor of Virginia, had expired, was, on the tenth of January, appointed Envoy Extraordinary to France, with ulterior commissions to London and Madrid. Livingston's free comments were thus rebuked; and the diplomacy of the Administration was also secured to Virginia.

It did not escape remark, that Monroe was one of the ten Senators who, in seventeen hundred and ninety-four, voted a disapproval of the mission of an Envoy Extraordinary to Great Britain, "inexpedient, because the communication could be made through the Resident Minister at much less expence;" † that he also objected to that mission as being "a measure without tone, and one which secured to that power, *time*, which, of all things it wished to secure." An objection to his second mission to Paris, which more offended the better public sense, was founded on an opinion expressed by him during his previous embassy. In the beginning of the year ninety-five, during a negociation pending between France and Spain,‡ when

* January 7, 1803. 50 to 32.

† In January, 1809, Monroe wrote Jefferson, proposing a mission of the same person to France and England, "to have no connection with the Minister on the ground in either country," and offered himself as the candidate to fill this extraordinary double mission.

‡ The Committee of Public Safety instructed Barthelemy, when at Basle, "to demand the restoration of Louisiana, and the cession of the Spanish part of St. Domingo; or that France should retain the provinces of Guipiscoa, and particularly Fontarabia and St. Sebastian, which had been conquered by her arms."

asked by Cambaceres and Boissy D'Anglos, "whether we wished to possess the Floridas, since it was intimated it would be easy for France to obtain them, but which she would not do otherwise than to *cede* them to the United States," Monroe replied, that he had no power to answer such an interrogatory, but "was well *persuaded that we did not wish an extension of our territory*"!

The rejection of such a proposal without waiting the decision of his own government excited increased distrust of Monroe's fitness for this important mission.* This appointment excited in Livingston no very agreeable emotions. He, probably, was not aware that Jefferson, at the time of each of his letters to him, had authorized a private individual, a Frenchman, to approach the government of France.

The letter of Jefferson, of the thirteenth of January, announcing his appointment to Monroe, states, the "agitation of the public mind is extreme. In the Western Country, it is natural, and grounded on honest motives. In the seaports, it proceeds from a desire for war, which increases the Mercantile lottery. In the Federalists generally, and especially those of Congress, the object is to force us into war, if possible, in order to derange our finances; or if this cannot be done, to attach the Western Country to them as their best friends, and thus get into power. Remonstrances and memorials are now circulating through the whole of the Western Country, and signed by the body of the people. The measures we

* "It is possible," Gouverneur Morris, (who had been superseded by Monroe) wrote Livingston, "that I am unjust to Mr. Monroe, but really I consider him as a person of mediocrity in every respect. Just exceptions lie against his diplomatic character, and, taking all circumstances into consideration, his appointment must appear extraordinary to the Cabinets of Europe. It is, itself, a most unwary step; and will lower our Government in public estimation."

have been pursuing, being invisible, do not satisfy their minds. Something sensible, therefore, has become necessary; and, indeed, our object of purchasing New Orleans and the Floridas is a measure liable to assume so many shapes that no instructions could be squared to fit them." "On the event of this mission," he adds, "depend the future destinies of this Republic."

In another letter,* Jefferson shows clearly that he had not sufficient nerve to resort to decisive measures; and, although he was apprised that the possession of New Orleans by France would ultimately render a contest with her inevitable, he resolved to permit her to clutch the Key of the Western States. "We shall still endeavour," he says, if the attempt to purchase should fail, "to go on in peace and friendship with *our neighbours*, as long as we can, *if our rights of navigation and deposite are respected.*"

But, although he viewed "the crisis as the most important the United States had ever met with since their independence, and which is to decide their future character and career;" and though he placed "the issue of this crisis" on the success of this negotiation for a purchase; after having been advised of the determination of France to occupy and hold her late acquisition, yet, even in the terms of purchase authorized to be proposed, the paramount consideration in all his measures is seen to be,—a narrow and unstatesmanlike economy, a timid avoidance of increase of debt. "It may be said," he writes, "if this object be so all important to us, why do we not offer such a sum as to insure its purchase? The answer is simple. We are an Agricultural people, poor in money, and owing great debts. * * * We have calculated our

* Jefferson to Dupont, Jefferson's Works, iv. 457, ed. 1854. Feby. 1803.

resources, and find the sum to be moderate which they would enable us to pay; and we know from late trials that little can be added to it by borrowing!" What and when were these trials? "The country too," he adds, "which we wish to purchase, except the portion already granted, and which must be confirmed to the private holders, is a barren sand, six hundred miles from east to west, and from thirty to forty and fifty miles from north to south, formed by deposition of the sands by the Gulf Stream, in its circular course round the Mexican Gulf; and which, being spent after performing a semicircle, has made from its last depositions the sand-bank of East Florida. In West Florida, indeed, there are, on the borders of the rivers, some rich bottoms, formed by the mud brought from the upper country. These bottoms are all possessed by individuals. But the spaces between river and river are mere banks of sand; and in East Florida there are neither rivers, nor consequently any bottoms. We cannot then make any thing by a sale of the lands to individuals. So that it is peace alone which makes it an object with us; and which ought to make the cession desirable to France."

Such was the language put in the mouth of his confidential French agent by the President of these United States—language that would naturally be, and probably was intended, to be repeated to Buonaparte, then standing on the pinnacle of the world. "We are poor, owing great debts, unable to borrow."—"The Country to be bought is a mere performance of the Gulf Stream,"—"a sand bank," and a "mud deposit," by the sale of which "we cannot make any thing." Who can be surprised, when the President of this Republic places himself before Napoleon as a huckster, that he should have pronounced the United States—'a nation of traders'?

When its subsequent history shall show this Republic a prey to rapacity, treated with scorn and contumely, until it became the mere subsidiary of a power, which measured nations only by their ability to injure or to avenge, and by their indomitable will, who can wonder, after such an exhibition?

The Federalists would have raised these United States from this suppliant posture. They looked back to the period when England issued her indefensible order to her cruisers, and recalled with just pride, the language of Hamilton addressed by Washington to Congress: "There is a rank due to the United States among nations, which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire peace, one of the most powerful instruments of our rising prosperity, it must be known, that we are at all times ready for war."

Their efforts, at this time, to impart firmness to the counsels of the Administration were prompted by the most exciting public considerations. In an Address to the First Consul, received at this moment in America, a development of the extending views of France, was seen. In this document, well framed to flatter the vanity of her despotic ruler, the glories of a future empire in the western continent are held up to his dazzled view: "Fancy in its happiest mood cannot combine all the felicities of nature and society in a more absolute degree, than will be actually combined, when the valley of the Mississippi shall be placed under the auspices of France. The Nile flows in a torrid climate, through a long and narrow valley. Does this river bestow riches worthy of the greatest efforts of the nation to gain them, and shall the greater Nile of the western hemisphere be neglected? A Nile, whose inundations diffuse the fertility of Egypt twenty leagues from its shores, which occupies a valley wider than from the

Duna to the Rhine, which flows among the most beautiful dales, and under benignant seasons; and which is skirted by a civilized and kindred nation on one side, and on the other by extensive regions, over which the tide of growing population may spread itself without hindrance or danger." "The prosperity of the French colony will demand the *exclusive* navigation of the river. The Master of the Mississippi will be placed so as to control, in the most effectual manner, the internal waves of faction. He holds in his hands the bread of the settlements westward of the hills. He may dispense or withhold it at his pleasure. See we not, the mighty influence that this power will give us over the counsels of the States?"

The safety of this colony is inferred from the weakness of the Federal Government, the different interests of the States, their geographical divisions, the ascendancy of the Democratic party. "Suspicious, vengeful, and irascible to England, their charity thinks no wrong, endures much, and is easy of entreaty to Frenchmen. What obvious and convenient *tools* will these prove in any critical affairs?" "The majority of their rulers are pliant clay, fittest for our use. From these we may exact neutrality to all our schemes. They will take pains to shut their eyes against future evils." Other dangers are depicted. "When war becomes the topic of discourse, well may they deprecate a quarrel with France. They will turn their eyes to the calamities of St. Domingo—an example is before their eyes of a SERVILE WAR. The only aliens and enemies within their borders are not the blacks. We shall find in the INDIAN tribes, an army permanently cantoned in the most convenient stations—a terrible militia, more destructive while scattered through the hostile settlements, and along the open frontier, than an equal force of our own. We shall find in the bowels

of the States a mischief that only wants the touch of a well-directed spark, to involve, in its explosion, the utter ruin of half their nation. Such will be the powers we shall derive from a military station, and a growing colony on the Mississippi—a province cheaply purchased at ten times the cost to which it will subject us."

While such were the inducements held out to France for the permanent occupation of Louisiana, chiefly prompted by the weakness of the Southern States, and the impotence and pusillanimity of the Administration and its subservience to France, Jefferson shows in his private letters and in his public acts, how just was the estimate entertained of him. "The great mass of our people are agricultural; and the commercial cities, though, by the command of newspapers, they make a great deal of noise, have little effect in the direction of the Government. They are as different in sentiment and character from the country people as any two distinct nations, and are clamorous against the order of things *established by the agricultural interest.*"* This letter was addressed to a gentleman in France. His public policy is seen in a circular issued, as he states, by request of the House of Representatives, "urging the importance and indispensable necessity of vigorous exertions on the part of the State Governments, to carry into effect the Militia system adopted by the National legislature * * * as will, under the auspices of a benign Providence, render the Militia a sure and permanent bulwark of National defence." Having, in this moment of alarm, admitted the existence of a "benign Providence," (although little more than a year had elapsed since he had seized an opportunity to express "a condemnation of the alliance between

* Jefferson's Works, iv. 463, ed. 1854. To Mr. Pictet, Feb. 9, 1803.

Church and State, under the authority of the Constitution, and of saying why he did not proclaim fastings and thanksgivings,") he adds: "None but an armed nation can dispense with a standing army; to keep ours armed and disciplined, is, therefore, at all times important, but especially so at a moment when the rights the most essential to our welfare have been violated, and an infraction of treaty committed without color or pretext."* While with such halting means Jefferson was content, the Federalists were quick to the honor of the Nation, and all alive to the dangers of France holding so near a neighborhood. To avert them, they were willing and prepared, if necessary, to risk a war.

No change had taken place in the breast of Buonaparte, whose vast ambition recognized no other limits than the limits of the Globe. Livingston had, meanwhile, exhausted persuasion. At the moment the energetic resolutions of Ross were under discussion, he wrote to Madison: "I am now lying upon my oars, in hopes of something explicit from you. I consider the object of immense importance, and this, perhaps, the favorable moment to press it."† Eight days after Congress had adjourned, he again wrote to Madison: "I told you that M. Talleyrand had assured me that no sale would be heard of;" adding the following day: "With respect to a negociation for Louisiana, I think nothing will be effected here." He apprised the Government of the determination of Buonaparte to accredit Bernadotte, as Envoy to the United States, who was to be in command of the Expedition to New Orleans, then lying in the Dutch ports, "of the delay of which," he stated, "the First Consul often complained."

* Jefferson's Works, iv. 469.

† February 18, 1803.

Hamilton, who has been seen throughout all his official life, the great, prominent friend and advocate of the rights and interests of the Western people of the United States, as intimately connected with the "UNITY OF THE AMERICAN EMPIRE," had repeatedly avowed his convictions of the policy proper to be pursued in this great emergency. Having waited in vain some indication of a determined purpose on the part of the Administration, he felt that precious moments were being lost; that the danger was imminent; that the projects of France ought to be anticipated; and he determined to give an impulse that would not be withstood. With this view, he prepared the following article, which he caused to be published over the signature of "Pericles," in the gazette of the Federal party, known to have been the channel of his opinions, presenting an outline of the effective measures he thought ought to be adopted, and for the purpose of stimulating Jefferson to action.

"*For the Evening Post.*

Since the question of Independence, none has occurred more deeply interesting to the United States than the cession of Louisiana to France.

This event threatens the early dismemberment of a large portion of our country; more immediately, the safety of all the Southern States; and remotely, the independence of the whole Union. This is the portentous aspect which the affair presents to all men of sound and reflecting minds of whatever party; and it is not to be concealed, that the only question which now offers itself, is, how is the evil to be averted?

The strict right to resort at once to *War*, if it should be deemed expedient, cannot be doubted. A *manifest and great danger* to the Nation; the nature of the Ces-

sion to France, extending to ancient limits without respect to our rights by treaty; the direct infraction of an important article of the treaty itself, in withholding the deposit of New Orleans; either of these affords justifiable cause of War, and that they would authorize immediate hostilities, is not to be questioned by the most scrupulous mind.

The whole is then a question of expediency. Two courses only present: First, to negociate, and endeavour to purchase; and if this fails, to go to war. Secondly, to seize at once on the Floridas and New Orleans, and then negociate.

A strong objection offers itself to the first. There is not the most distant probability that the ambitious and aggrandizing views of Buonaparte will commute the territory for money. Its acquisition is of immense importance to France, and has long been an object of her extreme solicitude. The attempt, therefore, to purchase, in the first instance, will certainly fail; and in the end, war must be resorted to, under all the accumulation of difficulties caused by a previous and strongly-fortified possession of the country by our adversary.

The second plan is, therefore, evidently the best. First, because effectual; the acquisition easy; the preservation afterwards easy: the evils of a war with France, at this time are certainly not very formidable; her fleet crippled and powerless; her Treasury empty; her resources almost dried up; in short, gasping for breath after a tremendous conflict, which, though it left her victorious, left her nearly exhausted under her extraordinary exertions. On the other hand, we might count with certainty on the aid of Great Britain with her powerful navy.

Secondly, this plan is preferable because it affords us the only chance of avoiding a long-continued war. When

we have once taken possession, the business will present itself to France in a new aspect. She will then have to weigh the immense difficulties, if not the utter impracticability, of wresting it from us. In this posture of affairs she will naturally conclude, it is her interest to bargain. Now it may become expedient to terminate hostilities by a purchase, and a cheaper one may reasonably be expected. To secure the better prospect of final success, the following auxiliary measures ought to be adopted.

The army should be increased to ten thousand men, for the purpose of insuring the preservation of the conquest. Preparations for increasing our naval force should be made. The Militia should be classed, and effectual provision made for raising, on an emergency, forty thousand men. Negociations should be pushed with Great Britain, to induce her to hold herself in readiness to cooperate fully with us, at a moment's warning. This plan should be adopted and proclaimed before the departure of our envoy.

Such measures would astonish and disconcert Buonaparte himself; our envoy would be enabled to speak and treat with effect, and all Europe would be taught to respect us.

These ideas have been long entertained by the writer, but he has never given himself the trouble to commit them to the public, because he despaired of their being adopted. They are now thrown out with very little hope of their producing any change in the conduct of the Administration, yet with the encouragement that there is a strong current of public feeling in favor of decisive measures. If the President would adopt this course, he might yet retrieve his character; induce the best part of the community to look favorably on his political career, exalt himself in the eyes of Europe, save the Country and se-

cure a permanent fame. But, for this, alas! Jefferson is not destined!"

At this moment, a Delegate from Mississippi presented a memorial from the legislature of that territory, which stated, that beside shutting the port, the Intendant of Louisiana had recently issued a Proclamation inhibiting all intercourse between the citizens of the United States, and the subjects of his Catholic Majesty. Its people tendered their services to vindicate the honor and protect the interests of the United States.

The actual cession to France was not positively ascertained. The seizure of New Orleans would be an act of hostility only towards Spain; and, in the view of the most scrupulous, Spain had furnished cause of War. Thus prompted to and justified in vigorous measures, a series of commanding Resolutions were laid before the Senate by Ross, whose residence in a District of Country at the head of the interior Western Navigation indicated him as their most appropriate channel.

These Resolutions declared the indubitable right of the United States to the navigation of the Mississippi, and to a place of deposit at its mouth;—that the late infraction was unquestionably a hostile aggression on their honor and interest;—that it did not consist with the dignity or safety of this Union to hold a right so important by a tenure so uncertain; that they must obtain complete security for its full and peaceable enjoyment; and that the President be authorized to take immediate possession of such place or places in the Island of New Orleans or the adjacent territories as he may deem fit or convenient for these purposes; and to employ fifty thousand Militia together with the Naval and Military forces of the Union, for effecting these objects, and that five millions of dollars be appropriated.

Dreading the effect of a public exposure of the pusillanimity of the Cabinet, when Ross, the mover of these resolutions, was about to address the Senate, its doors also were suddenly closed. He declared he would not offer them in secret. A Democratic caucus was held; and it was then resolved that the Senate doors should be opened the next day. These resolutions were forthwith vehemently assailed, and substitutes offered. They authorized the call of eighty thousand militia, an appropriation for the expence, and also for the erection of one or more arsenals on the Western Waters.

Limited and inadequate as was the policy of Jefferson, in contenting himself with urging the "carrying into effect the Militia system by vigorous exertions on the part of the State governments," thus throwing the responsibility and the expense on them, he admits, at this time, his distrust of a peaceful acquisition of New Orleans. "Although I do not count with confidence on obtaining New Orleans from France for money, yet I am confident in the policy of putting off the day of contention for it, till we have lessened the embarrassment of debt, *accumulated* instead of being *discharged* by our predecessors; till we obtain more of that strength which is growing on us so rapidly; and especially till we have planted a population on the Mississippi, itself sufficient to do *its own work* without marching men fifteen hundred miles from the Atlantic shores, to perish by fatigue and unfriendly climates."* There must be no more debt, no regular army; nothing decisive, better than these, in his view, would be the occupation of Louisiana by an army of France. How like the counsels of the timid at the outbreak of the Revolution. Better than incur the chances of a war with

* April 30, 1830. Jefferson's Works, iv. 483, ed. 1854.

England, "put off the contention," it was urged by the Tories, and wait the day, when the increased population of the Colonies would forbid attack or swallow up an invading army, or more gentle counsels sway her throne!

The friends of the Administration admitted the value of the right of deposit, that it had been violated, and if negotiation was unsuccessful, that war was inevitable; but urged, that the infraction might be unauthorized; that negotiation ought to precede force, and that policy dissuaded a resort to arms. Ross replied, if the infraction be unauthorized, the design must be that of an enemy and should be so treated. Instances of the seizure and condemnation of American property by Spain, and of the imprisonment of its owners, were adduced to show her hostility. The propriety of previous negotiation was admitted, in cases of minor injury—not so, in those of invasion of domain—of a blockade, of a forced contribution, certainly not, where the existence of a Nation is attacked. —"You," Ross exclaimed, "you hazard convulsion and dissolution, because possibly the aggressor has reasons for the outrage you do not yet know. This cannot be wise. This cannot be the course which National honor and safety call us to pursue. You never can abandon the right now denied and wrested from your hands. It is said, these resolutions necessarily induce war, and that thus our National debt will be increased. Our object is not War, but security for a right, without which our Union, our political existence, cannot continue. Should war arise, it will be less an evil than insecure and delusive hopes of tranquillity. War will increase your debt, but not more, nor as much, as vain attempts to secure this right another way; and after failing, you must have war."

"It has been said,* we may have a place of deposit

* Referring to Dewitt Clinton.

within our territory, and navigate thence. The nearest point upon our territory, is three hundred miles from the Sea, the river crooked, the current rapid, the anchorage bad. Without the privilege of the shore, the navigation would be impracticable. The Senator has advanced the extraordinary position, that, if our adversaries have time to prepare, we also have time to prepare, but he resists the resolutions, and proposes no effectual military preparations. A substitute is offered of eighty thousand Militia. We accept it. Our resolutions, it is said, are inoperative. Alter them and give an unqualified discretion, but exercise that discretion. Will such measures impede the negotiation? They would give effect to it. Our Envoy has not sailed. Let him take this act with him. He will then have more means, and more forcible arguments to urge the object of his mission. The whole matter was known at the opening of Congress, yet no step is taken, until our resolutions are proposed. Now you are willing to do something. Full confidence in negotiation is avowed. But are New Orleans and the Floridas a sufficient security? We are told, we are to look for more powerful neighbors. What right has Spain to give us these neighbors without consulting us? The Floridas must belong to the Masters of Louisiana. They have the lock and key of the whole Western Country. There is no egress or ingress without their leave. They have three thousand miles on your interior frontier—the command of your outlet—seven hundred miles of sea-coast. They become Masters of the Western world. Yet you are content to purchase New Orleans and the Floridas!! France, you tell us, will confirm our right of Deposit and of free navigation. We shall hold by their courtesy, not by the protection of our own Government. They will permit. But —You cannot enforce. Will she ask no return? Has

she no ulterior views? No? During the insidious interval, they will be driving rivet after rivet into the iron yoke which is to gall us and our children. We must commerce through a line of batteries manned by veterans, and return home with the proceeds, through a fortified camp. Why not place a force at the disposal of the President, while the Atlantic States are ready to support you? Are you sure you will ever again find the same disposition? At the next session of this Congress, no such offer may be made. There may be a pressure which will forbid it. If the Resolutions are too strong, remodel them. If the means are inadequate, propose others more effective. But as you value the best interests of the Western Country and the Union with those States, seize the present opportunity of securing it forever."

After many an earnest and eloquent appeal by the Federalists, to induce measures commensurate with the menaced dangers, the substituted resolutions of the Democratic party were adopted; and on the last day of the session, the third of March, a bill giving power to employ the militia, became a law.

Among other proceedings of this session, was the initiation of measures in relation to what was called "the Yazoo" speculation. The Legislature of Georgia had in the year ninety-five, authorized the sale of four tracts of land, estimated to contain forty millions of acres, for the paltry sum of five hundred thousand dollars, which became the property of four companies. The legislators were proved to have been corrupted, and the grand juries of the State presented this grant as a public robbery. A new legislature was chosen in reference to this grant; and, by the vote of all but three members, it was repealed, and the act of grant ordered to be expunged from the records. One of these companies availing itself of a

provision in an agreement between Georgia and the United States, that they might dispose of or appropriate five millions of acres of these lands in compensation for certain unrecognized claims, now petitioned Congress to satisfy their claim by purchase or commutation. Madison, Gallatin, and Lincoln, the leading members of the Cabinet, appointed commissioners to investigate this pretension, reported in favor of this petition. Another member of the Government was, it is stated, at the head of this company, and the agent for its prosecution in Congress, upon whose votes the influence of numerous contracts was charged to have been brought to bear.

A few days before the close of this session, after a vehement exposure by Randolph of the gross corruption practised, a compact concluded between these Commissioners and those of Georgia, was announced by Jefferson to Congress. It precipitately sanctioned the purchase of these lands, whose area would constitute an extensive State, though the Indian title to only a very small part had been extinguished. To this purchase the assent of Georgia was bought for a trivial sum.

CHAPTER CLXIII.

WHILE the fate of Louisiana occupied the deliberations of Congress, the legislative proceedings of the State of New York assumed a character which arrested the attention of Hamilton and of other reflecting men.

The utility of banks, as instruments of commerce, had been long and duly estimated in the great marts of the Union, but the employment of them as mere political engines was recent. The first instance of this kind was in the charter of the MANHATTAN BANK, a charter which, it is seen, Hamilton stated, was obtained by a trick. The author of this corrupting precedent was Aaron Burr! To the influence of this bank was chiefly, confidently, and openly ascribed, by the active members of the Democratic party, familiar with its secret operations, the result of the election in the city of New York, which raised Jefferson to the Presidency, and Burr to the second office of this government.

A successful example of corruption is not soon forgotten. It has proved a great fountain of evil pouring forth its bitter poisons upon this country and people. A mean so easy to be commanded, of such extensive and almost resistless influence, was now again resorted to. The project of a great "State Bank" was probably cotemporary with the recovery of power by the Democratic party

in the State of New York. Its objects were to enrich the leaders and to perpetuate their ascendancy. A petition for a charter was signed by the chief officers of the State. The directors were privately selected—private subscriptions to its capital were obtained. A portion of the shares was allotted to individuals; and in some instances, Federalists seeking to subscribe, were, on the discovery of their political opinions, rejected. But the greater part of the stock was reserved to reward party services, and to secure the grant of a charter by purchasing the votes of members of the Legislature. When the bill was under discussion, a motion that the books be opened to receive subscriptions was defeated; and this bank was chartered under a subsisting bargain that the private allotment of the shares should be made. Thus the mercenary views of the Democratic partisans were attained. A great political engine was created.

At the same session, other individuals residing at the capital of the State, also applied for a bank charter. A remonstrance was presented by the directors of the "STATE BANK" against this application, they proposing that all the surplus funds of the State, then dormant in the Treasury, should be vested in their bank. The more to augment their profits, these politicians sought to engross the revenue of the salt springs of the State, by obtaining a lease of them to their bank for a term of thirty years. This lease was to be obtained by a fraudulent and deceptive combination. The fraud was exposed; and, a part of the Democratic members uniting with the Federalists, the lease was refused.

The multiplication of chartered banks is seen early to have disquieted Hamilton. While the Federalists possessed the control of the State, after the incorporation of the Bank of New York, the power of creating banks was

never exerted by them. The establishment of that bank was the result of necessity produced by the impotence of the Confederation, and after a bank of the United States was instituted, they felt that the high and delicate office of creating a paper currency ought to be exclusively exercised by the Government of the whole nation.*

The dangers he had early apprehended from "a hydra of banks" were now fully before him, and he saw that the only remedy, one not free from objections, against these gross and growing legislative corruptions, was the introduction of a system of free banking—a system since not a little abused.

There were at this time no individuals in the United States of sufficient wealth to become private bankers. This could only be effected by an association; and Hamilton framed articles of limited co-partnership for an union of several capitals under the style of "The Merchants' Bank." Every stockholder became a member of this joint stock Company, and the holders of its engagements were declared to accept them on the condition, that they gave credit to the funds of the association, and disavowed any recourse to the separate property of its members, which limited liability was expressed on the face of such engagements. The company was prohibited dealing in any commerce, except of Bullion; and its duration was defined.

The second Secretary of the Treasury department had retired from office without the means of supporting his family, but specially honored by Washington for his fidelity. In view of his public services and actuated by personal regard, Hamilton had recently projected a mer-

* Lord Ashburton in his "Enquiry into the causes, &c., of the orders in council," states, that up to the year 1805 (the time when the effect of the multiplication of banks by the Democratic party began to be felt) there were no bank failures in the U. S. P. 40.

cantile association, over which he invited Oliver Wolcott to preside, offering to promote its success by becoming a contributor to its capital.* This precise plan was not carried into effect. To make a provision for his faithful friend, he was, at Hamilton's instance, chosen President of this new institution.

The Directors of the Manhattan Bank manifested a determined hostility to this dreaded rival. At their instance, the alarming example was given of calling a public meeting to attack this private right. From this meeting a petition was presented to the Legislature, offering a douceur for an increase of the capital of their bank; the political influence it had exerted over the elections of the City being a prominent ground on which this claim was preferred.

At their instance, also, a bill was introduced into the assembly, entitled, "An Act to restrain unincorporated Banking Associations." After much opposition, it passed by small majorities of each house. The Council of Revision was divided; those opposed to the act insisting on its unconstitutionality as an invasion of private rights and an interference with the free employment of capital, which those rights and public policy forbade. It nevertheless became a law.

The restrictions it imposed produced the apprehended consequences. Candidates were selected for the Legislature with reference solely to banking applications. Counties were drilled to ensure their success. A corps of intriguers ramifying the State was embodied; and encamping around the Legislature, dictated its laws. Year after year, scenes of open, shameless, unparalleled profligacy succeeded to each other, until at last, after a suc-

* Hamilton's Works, vi. 549.

cessful effort to subject the money corporations of the State to a political commission, the people, preferring to risk other evils than to endure the continuance of this dangerous influence of thirty years' duration, repealed this restraining act, generated, as has been seen, in gross corruption.

It has been mentioned, that Hamilton had urged a law by which the electors of President should be chosen by the people in electoral districts; that an amendment of the Constitution of this nature was recommended to Congress, but did not meet with favor in that body, over which the influence of Virginia was now absolute. The effort to induce the enactment of such a law by New York was renewed, but was unsuccessful; the dominant party avowing their determination to secure an undivided State vote, through the Legislature.

The measure which now most excited alarm was a bill to alter the charter of the City of New York, a great public corporation. A petition of several citizens, having this object in view, was presented to the Legislature in the year eighteen hundred, but was not granted, the house declaring that they could not, without violating the chartered rights of the city, add to the number of its wards, unless on the application of the corporation. As the charter was, the Federalists, being a majority of the freeholders, had a majority in its government. The attempt by a subdivision of freeholds to obtain a Democratic preponderance had failed. It was now resolved, regardless of the recent official declaration of the State, to violate this charter. The bill passed, and this circumstance attended its passage. Governor George Clinton and two other persons, who on the first occasion voted against the measure as a violation of chartered rights, when the corporation was silent, now, after that body had remonstrated

against the change, acting in a judicial capacity as members of the Council of Revision, approved the bill. Judge Kent, then also a member of that Council, firmly opposed this act. "It established," he said, "a dangerous precedent. It involves a principle which may lead to the destruction of all the chartered rights and property of the people of this State; for rights and property cease to be of value when the faith of compact does not secure them, and they are to be held at the will of any man or set of men whomsoever."

This usurpation of power was defended by the Democratic party on the ground, that "in England, Parliament may dissolve a corporation without its assent, and that therefore the Legislature could without its assent make changes in its privileges or immunities." But in opposition to a similar attempt, the highest toned member of Parliament, and one of the most arbitrary of its ministers, observed, "if the principle of this bill be established, what security have the national creditors or the public corporations? Indeed, what assurance is there for the great charter itself—the foundation of all their liberties?" The Democrats pleaded as a precedent for this usurpation, the omnipotence of Parliament, and were successful. The Federalists appealed in defence of vested rights to the great charter of American liberty—the Declaration of Independence,* but they appealed in vain.

These several acts indicated future consequences of a fearful nature; and called loudly for public animadver-

* He, the King, "has combined with others to subject us to a Jurisdiction foreign to our constitutions, and unacknowledged by our laws, giving his assent to their acts of *pretended legislation* for quartering large bodies of troops among us—for *taking away our charters*, abolishing our most valuable laws and altering fundamentally the forms of our Governments, declaring themselves invested with power to legislate for us *in all cases whatsoever*."

sion. Much as Hamilton was dissatisfied with the cabals and violent opinions of a part of the Federalists, he felt it a duty at the next annual election in the spring to appear once more before the people. In despite of these cabals he was encouraged by the rising spirit of the nation against the recent Spanish aggressions, and his voice was again heard, as in eighty-four, warning them against legislative tyranny; and exhorting them, as he had often done, not to permit the foot of a foreign soldier to rest for a moment on a land, which the hand of the Almighty had united with it as necessary to the integrity of this Republic. A meeting of Federalists was called, but owing to his unavoidable absence, it adjourned. It was convened at a future day when he was present, and addressed them the last time. His speech is represented as "most eloquent and animating." He took a brief view of the measures of the General Government, and then noticed some of the acts of the petty tyrants of the State. In conclusion, he exhorted his fellow-citizens to seize the present occasion, and wrest the dominion from hands so unfit to retain it. Referring to the elections in New England, he remarked that the wise men of the East had lately arisen in their power, and put democracy to flight, and he could not but entertain the hope that their glorious example would be followed. "The trunk of Federalism was evidently reviving, the sap was ascending, the buds began to put forth, and he doubted not its leaves would soon overshadow the land, and that we should be blessed with fruit more than ever abundant." This confidence, it has been seen, was prompted by the tone of the people, who were bracing themselves for a contest with France; and whose determined temper is the more marked as contrasted with the indecision of the Cabinet.

The Administration was at last aroused to a sense of

their position. Averse as Jefferson was to a war with France, to the conduct of which he felt himself unequal,—to a contest with a government which it was confidently believed had his partisans in its power to an extent only credible by those who had learned the secrets of his party; yet he had begun to see that no alternatives were left but a retrocession of Louisiana by France—a sale to the United States, or war. Such was his sense of the importance of excluding from this territory one of the great powers of Europe, that he is seen in the second year of this Government, in its very infancy, to have declared, that if Louisiana and the Floridas were to be added to the British Empire, "to prevent the calamity the United States ought to become parties to the general war." So, when the cession by Spain to France was first rumored, he is seen charging that, by that acquisition, she "would assume to us the attitude of defiance." Yet, when this calamity had occurred, how changed his language and his conduct.

His letters indicate his fears, fears resorting to entreaty. So undecided had been his policy, that as late as February, Livingston assigned to Madison as a reason for avoiding a personal conference with Buonaparte, that he had "never yet had any specific instructions how to act, or what to offer. To meet him, merely to talk of the justice of our claims, and of our rights on the Mississippi, would be only to say ungracious truths, and excite prejudices which may render a future conference more difficult."

Joint instructions were at last given, two days before Congress adjourned, to Livingston and Monroe. After stating that "the sensibility and unanimity in our nation, which have appeared on this occasion, must convince France that friendship and peace with us must be precarious until the Mississippi shall be made the boundary be-

tween the United States and Louisiana," Madison entered into an argument to disabuse France of an error which his party had so long and unreservedly used as a mean of exciting her hostility to this country. "*It is not true*," he wrote, "that the Atlantic States lean towards any connection with Great Britain inconsistent with their amicable relations to France. Their dispositions and their interests equally prescribe to them amity and impartiality to both of those nations;" nor could the Western part of the United States be withdrawn from their present union with the Atlantic part, into a separate Government, closely allied with France. The commercial advantages of a cession to the United States were enumerated, and the inutility of a colonial establishment, having relation to the West Indies, was indicated.

A statement of the motives to a cession preceded a plan which contemplated the purchase of New Orleans and the Floridas for ten millions of livres,* that the Mississippi would be the boundary, and that its navigation from its sources to the Ocean should be *free* to *France*, reserving a right of deposit at New Orleans to the French for ten years, and stipulating that the commerce with the Floridas should be on the footing of the most favored nation. If France were unwilling to cede the whole island of New Orleans, a *part* was to be purchased; if not the whole of the Floridas, a *part of them* was also to be bought.

Six days later, Madison wrote to Pinckney at Madrid: "This continuation of the obstruction to our trade, and the approach of the season for carrying down the Mississippi the exports of the Western country, have had the natural effect of increasing the Western irritation, and

* $1,666,666.

emboldening the advocates for an immediate redress by arms. Among the papers enclosed, you will find the propositions moved in the Senate by Mr. Ross, of Pennsylvania. They were debated at considerable length, and with much ardor; and, on the question, *had eleven votes in their favor against fourteen.* The resolutions of Mr. Breckenridge, which have passed into a law, will, with the law itself, be also found among the enclosed papers." * * * "These measures," he adds, "being merely those of ordinary precaution, and *precisely similar to those which accompanied the mission of Mr. Jay to Great Britain in* 1794." Thus explicitly does he approve the policy then so obstinately opposed by his party—projected and carried into effect by Hamilton and the Federalists under Washington's approval! * * * "Should the deposite, however," he further remarks, "not be restored in time for the arrival of the Spring craft, a new crisis will occur, which it is presumed that the Spanish Government will have been stimulated to prevent by the very *heavy claims of indemnification* to which it would otherwise be fairly subjected." * * * "We hope that the energy of your interpositions, will have overcome its tardy habits and have produced an instant despatch of the necessary orders" not to obstruct the navigation.

A letter addressed by Madison to Monroe of the twentieth of April, more fully discloses the timidity of the Cabinet than he dared to evince in his instructions, a copy of which Congress might demand. "Should no improvement of existing rights be gained, disappointment will be great. Still, respect for principle and character—aversion to war and taxes—the hope of a speedy conjuncture more favorable, and attachment to the present order of things will be persuasive exhortations to *patience.* It is even a doubt with some of the best judges whether *the*

deposit alone would not be waived for a while, rather than it should be the immediate ground of war and an alliance with England. This suggested a particular passage in the official letter now sent you and Mr. Livingston. The elections in New England are running much against the Administration; as to Virginia in general, things continue well in that State."

Soon after the date of these instructions to the joint envoys, a royal order of Spain was made public, directing the delivery of Louisiana to the French, as possessed by them when ceded to her. This retrocession embraced the whole North-Western territory as then defined—a fact which marks the purposes of France. The information of this order was carefully kept back until Congress had risen. Before another week elapsed, the French Chargé d'Affaires announced to Madison, that the suspension of the right of deposit was the unauthorized act of the Spanish Intendant, which annunciation was followed by a letter from the Spanish Minister, stating that orders had been received to continue the right of deposit until an agreement should be made as to an equivalent place.

The disclosure of these orders was hailed by the Democratic party with loud exultation. A calmer view exhibits this procedure as a deceptive assurance intended to lull the American Cabinet to repose, until France should have taken full possession of her acquisition. This is the only probable motive to which her reserve at Paris and the intimation of her purpose to accredit a minister to the United States can be ascribed. It is confirmed by the fact that Buonaparte had sent his prefect Laussat to New Orleans to receive possession, who only waited the arrival of a French fleet and army to enter upon the government of the province. But events were taking a direction in Europe, which rescued the Democrats from the

impending danger and established the dominance of the Virginian influence.

On the day* when the assurance of the French Chargé was received at Washington, that the suspension of the right of deposit was unauthorized, Livingston wrote from Paris the letter previously quoted: "With respect to a negotiation for Louisiana, I think nothing will be effected here." He, at the same time, mentioned an occurrence which showed the strong probability of a renewal of hostilities between France and Great Britain.

Early in the previous year, the British Cabinet stated to the American resident at London: "It is impossible that so important an event as the cession of Louisiana by Spain to France should be regarded by the King in any other light than as highly interesting to his Majesty and to the United States; and should render it more necessary than ever that there should subsist between the two Governments that spirit of confidence which is become so essential to the security of their respective territories and possessions." It assured him, that his Majesty "has not, in any manner, directly or indirectly, acquiesced in or sanctioned this cession, and will be anxious to learn the sentiments of the United States on every part of this subject, and the line of policy which they will be inclined to adopt in the event of this arrangement being carried into effect."

In his state of alarm, Jefferson wrote to Rufus King, expressing a "hope that through your agency we may be able to remove every thing inauspicious to a cordial friendship between this country and the one on which you are stationed; a friendship dictated by too many considerations not to be felt by the wise and dispassionate

* March 12, 1803.

of both nations. It is, therefore, with the sincerest pleasure I have observed on the part of the British Government various manifestations of just and friendly dispositions towards us. * * * The interesting relations between Great Britain and the United States, are certainly of the first order; and as such are estimated, and will be faithfully cultivated by us." This letter was expressly written to gain favor with England, looking to a treaty of alliance with her, though the contemplation of such a treaty, untruly imputed to the Federalists, was adduced as evidence of their monarchical designs, charging them with an intention "of making their country an appendage of England." "If I recollect rightly," Jefferson wrote to Madison, "we had instructed Monroe when he went to Paris, to settle the deposit; if he failed in that object, to propose a treaty to England immediately." A "provisional" treaty with England was subsequently suggested by him "to come into force on the event of our being engaged in war with either France or Spain" during the "then" war in Europe.*

The risen temper of the public mind in the United States was such as to inspire England with a belief that the American people were prepared to resist the acquisition of Louisiana by France. In this she had a direct interest, in the right reserved to her subjects to the free navigation of the Mississippi; and, on the eighth of March, eighteen hundred and three, the King of Great Britain, referring to the military preparations in the ports of France and Holland, announced to Parliament his purpose to take additional measures of precaution. Buonaparte was not at this moment prepared for war. Fear of hostilities, and lest the United States might become a

* Jefferson's Works, iv. 586, ed. 1854.

party to them, in concert with England—a belief that she was moved to them by apprehensions that France in taking a military position at New Orleans had views dangerous to her West India possessions, and the firm language and attitude of the Federalists, produced a sudden change in the counsels of the first Consul.

On being advised of the recent message of her King, and learning that an armament was in preparation by Great Britain to seize New Orleans, Buonaparte delivered a paper to the British Embassador, stating that "the expedition preparing in the Dutch ports, was, as all the world knew, destined for America; but, in consequence of the King's message, that it had been recalled, and would not proceed." Livingston seized this moment to present to the first Consul a view of the rights of the United States under the treaty with Spain, stating the sensation her violation of those rights had produced in America; and that delay in recognizing them would change "every political relation that it has been and still is, the earnest wish of the United States to preserve; and would force them to connect their interests with those of a rival power." This intimation had weight, but at the moment of its being received, despatches arrived from the French Chargé at Washington, informing the first Consul "that the appointment of Monroe had tranquilized every thing." Buonaparte now resolved to see whether the storm would blow over, in which case he could treat with more advantage. Talleyrand wrote to Livingston, a fortnight after the message of the King of England, "How could the neighborhood of France affect unfavorably the American people, either in their commercial or political relations? Your government ought to be well persuaded, that the first Consul bears to the American Nation the same affection with which France has been at

all times animated, and that he considers the new means which the possession of Louisiana affords him of convincing the Government and people of the United States of his friendly disposition towards them in the number of the advantages that must result from that acquisition." This profession, almost a satire, was a little too late. The aspect of the British counsels became daily more menacing. It was announced,* to the American Ambassador at London, urging upon Great Britain the emancipation and independence of South America, "that, if the war happen, it would, perhaps, be one of her first steps to occupy New Orleans; that were she to occupy it, it would not be to keep it, but to prevent another power from obtaining it, and this end would be best effected by its belonging to the United States."

On the seventh of April, the ultimatum of England was communicated to France; and on *the same day*, the resolutions submitted by Ross to the Senate, being received at Paris, were sent to Talleyrand with an informal note, expressing fears that they would be carried into effect.† Thus, that which persuasion and entreaty could

* April 2, 1803.

† "The Resolutions proposed in Congress, in consequence of the business of New Orleans, coming to hand, I sent a translation of them by Bernadotte to —— and also enclosed them to the minister. They *proved* we would not be *trifled* with, and the probability of a rupture with England hastened their determination, and they saw, as Mr. Talleyrand told me, if they gave what we asked, the rest was not worth keeping."—Am. Arch. F. R. ii. 558.

In an interview between Livingston and Monroe April 12, 1803, at Paris, the former asked, "*what had become of Mr. Ross' resolutions.*" Being answered by Mr. Monroe that they were superseded by others of a more pacific aspect, he said, "*I am sorry for it, I wish they had been adopted.* Only force can give N. O. to us;" and further declared that he believed nothing but the actual possession of the country by the Americans could give success to the mission in which he was associated with Mr. Monroe. Signed John Mercer.

Madison to Monroe, Washington, March 1, 1803.—"The proposition of

not obtain, the firm policy Hamilton had urged, aided by propitious circumstances, wrested from France.

The following day, a communication was made to his council of Buonaparte's determination to sell. Three days after, on the eleventh of April, Talleyrand asked Livingston "whether we wished to have the whole of Louisiana?" He told him, "No, that our wishes extended only to New Orleans and the Floridas." He replied—"If they gave New Orleans, the rest would be of little value, and that he would wish to know what we would give for the whole." Restricted as to price, Livingston was compelled to offer an amount far below the views of France, which named the sum of twelve millions of dollars and the assumption by the United States of the American claims, as a price that would probably be accepted.

Monroe arrived the next day.* Happily for the United States, the determination to sell had been taken by France previous to his appearance at Paris.† All that remained to be negotiated was a diminution of price, which was refused. It was at last decided to pay the demand of France, and a treaty for the purchase of Louisiana was concluded on the thirteenth of April.

Mr. Ross in the Senate which drove at war through a delegation of *unconstitutional* power to the executive was discussed very elaborately and with *open doors*."

* April 12.

† In a subsequent despatch (Livingston to Madison, Nov. 15, 1803) Livingston wrote—"He (Monroe) unfortunately came too late to do more than *assent* to the propositions that were made us, and to aid in reducing them to form. I think he has too much candor not to be displeased, that his friends should publicly endeavor to depreciate me by speaking of a private letter hastily written under circumstances of irritation. I have every reason to think that the treaty would have been concluded in March, had not Mr. Pichons'" (the French Chargé at the United States) "letter at the moment contradicted my suggestion on this subject."—Am. Arch. F. R. ii. 573.

Even at this late period France regretted this cession, but her relations with England were instantly becoming more critical. On the twenty-second of May hostilities were commenced by her, and on the same day Buonaparte ratified the treaty for the sale of Louisiana.

A week previous, Monroe had written to Madison: "Could we have procured *a part* of the territory we should never have *thought* of *getting the whole*, but the decision of the Consul was to sell the whole, and we *could not obtain any change in his mind on the subject.* So peculiarly critical, too, was the moment, owing to the pressure of England, the effect produced here by the temper of our Government manifested by the *measures of Congress*, and that of our Government, in putting the matter fairly at issue by sending me here." Having stated the advantages of the bargain and suggested as perhaps the best course—to keep it vacant and sell it at some future time, he adds: "We may be able to decide, whether it will be best to lay the country off into States, admissible into our Union, or to *become independent States, but allied to us.*" Having made a statement to show that "nothing was done" until after his arrival, he observed, that "through the whole of this business, he" (Livingston) "has kept up a correspondence with King, *which I have not done.*"

Great as the exertions of the leaders of the Democratic party had been to soothe the impatience of the people during this negotiation, they were vain. The information that the right of deposit was acknowledged formally by Spain, and the language of the French Chargé d'Affaires had but a temporary influence. The jealousy of the nation was aroused, and it was apparent, as the danger they apprehended became imminent, that they began to look to their former rulers to guide them

through the impending storm.* With few exceptions, the journals of the Federal party observed a discreet caution on this question. It was believed that a great crisis was near, and as a negotiation was pending, though they doubted its success, they abstained from every thing that might involve the country, or embarrass the administration.

Efforts were in the mean time continued to exhibit Jefferson in his true character before the people. A decision had been recently given by the Supreme Court on the legality of his order to Madison to withhold the commissions of certain of the Judges, which had been signed, duly attested, and sealed by his predecessor in the Department of State, but had not been delivered. After a full investigation of the subject, this tribunal decided, that to withhold the commission was "an act deemed by the court not warranted by law, but violative of a vested legal right."

A publication was also made at this time by the injured party, a respectable citizen of Virginia, showing Jefferson not more observant of his private than of his public engagements.

Before the general amazement at the exposure of his want of integrity and personal honor had subsided, advices were received of the cession of Louisiana, and that war had been declared by Great Britain against France. The aggressions which the American commerce was again to encounter were forgotten by the recently drooping, now exulting cabinet. They saw, with well founded

* The excitement drew, at last, a letter from Madison on the thirteenth of April, authorizing, "if France should be found to meditate hostilities or to have formed projects which will constrain the United States to resort to hostilities, such communications then to be held with the British government as will sound its dispositions, and invite its concurrence, in the war."

satisfaction, the removal of near dangers to the country, and hailed in this cession the confirmation of their power. A wide domain was now opened before the people to gratify their passion for change. Parcelled out in States, this extensive realm was to become the great inheritance of freemen. If doubts arose as to the future influence of this acquisition upon the Federal system, its consequences were remote, the present good more than compensated for contingent ills.

The Administration boldly claimed the merit of this purchase, and its timid negotiations and defenceless policy were all forgotten by the people, joying in the result.*

But the supposed effect of this enlargement of territory, the transfer of power from the navigating to the planting States, was little welcome to the politicians of New England. Instead of viewing it as a region in which her happy institutions would be established on a broader scale, where every lowly school-house and every rising spire would mark the progress of the pilgrim race, they saw it only as a wide area over which the "Old Dominion" of Virginia would extend her sceptre and spread out her colonies. So vast a possession, it was declared, would inevitably dissolve the Union, and induce new forms of government, or new theories of governing the old States.

The old States would be impoverished by emigration, the new would, for a long time, be little more than pathless tracts of wandering herdsmen. It was affirmed also, that the honor of the country was tarnished by purchas-

* Madison to Monroe, July 30, 1803. "The purchase of Louisiana to its full extent, though [*not contemplated*] is received with warm, and, in a manner, universal approbation. The uses to which it may be turned render it a highly noble acquisition." Parts in brackets in cipher! omitted in the copy made under Madison's directions.

ing that which could have been conquered and held, and for a price oppressive to industry. Hamilton never for a moment forgot his country for party. Although he regarded this result as the issue of events on which a prudent statesman could not have counted, yet no man was more open in his approval of the measure; and although, while he saw some of the ill consequences of this extension of territory where Democracy would wheel in its vast orbit, he was not unaware that the political evils predicted would supervene, though the limits of the Union had not been extended. He knew that the wants of the growing West would increase the demands for the supplies of the East, greatly augmenting her manufactures, and widely enlarging the coasting trade; and while inviting forth her youthful progeny, would quicken the industry and furnish sustenance to the parent hive. He may well have hoped that a more expanded empire might compel a larger, higher, more comprehensive national policy; that the counterbalancing influences which would grow up would fully compensate for the want of system and of purpose, he feared incident to Democratic institutions; that popular delusions would be less influential, and popular violence be diminished by being less concentrated.

Though an acquisition of Louisiana by arms he felt was fully justified by the aggressions of Spain, he was unwilling to cavil at the mode in which it had been effected; and as to the price of the purchase, he had sounded the depths of the national wealth and knew it to be almost exhaustless. Nor in the same spirit, would he have regretted the acquisition of the Canadas by honorable means, observing that the St. Lawrence would form a proper arrondissment. This acquisition is an event of the future, to be accomplished at any moment by the construction of a ship canal to the waters of the Hudson.

While the people were rejoicing at this purchase, advices were received from Paris indicating the necessity of the utmost promptitude in ratifying the treaty and in providing for its fulfillment. Having adverted to his endeavors to excite alarm in France at the probable intervention of Great Britain, Livingston wrote, "I own, I have felt very much distressed that I never found any of these suggestions noticed or encouraged by our Government. But, presuming always that they ultimately would be, I have carefully concealed my want of powers, and acted as decidedly as if I possessed them; and to this as well as to the firm attitude that our Government took, you may attribute the success of our negotiations. I hope that nothing will prevent your immediate ratification, without altering a syllable of the terms. If you wish any thing changed, ratify unconditionally and set on foot a new negotiation. Be persuaded that France is sick of the bargain, that Spain is much dissatisfied, and that the slightest pretence will lose you the treaty."*

* It is obvious from the whole tenor of Livingston's despatches, that he felt himself deeply injured by the conduct of Madison. He not only complains of the want of instructions, but also of the distinction of grade between Monroe and himself. This Madison attributed "to an *error* in the *clerk* who copied the documents, and which escaped attention when they were signed." Livingston rejoined, "Having had the goodness to correct *one of the errors* of the *clerk*, that gave me some cause of complaint, I must notice *another* which added to my doubts of success when I wrote to Mr. Monroe. In the *copy* of our *joint* instructions, which *you* had forwarded to *me*, the ultimatum that we were limited to was *Thirty Millions*, out of which the American claims were to be paid. Now, I was satisfied, that if Mr. Monroe, on his arrival, should adhere to this, our prospect of success was not very great, since ten millions, in cash, to the Government, was an object of but little moment. More might have been got from Spain by a transfer. On looking over, however, the *original instructions*, of which *Mr. Monroe* was the bearer, I found that we were authorized to give *Fifty Millions* for New Orleans and the Floridas, so that we could, without too extraordinary assumption of powers, go to the price they expected for Louisi-

The dissatisfaction of Spain was seen at Madrid, her Government denying the right of France to sell Louisiana to the United States, and alleging a recent stipulation not to alienate it. Her minister at Washington entered a *caveat* against this sale on the same ground, and subsequently objected that France had never completed her title to this territory. These objections were futile, but, if they could have had any weight, were refuted by the fact, that Spain had formally announced to the United States her retrocession to France; and that "they might address themselves to the French Government in order to negotiate the acquisition of the territories which would suit their interest."

The importance of the subject had induced the President to convene Congress for the seventeenth of October, on which day his Message was laid before them. After alluding to the excitement which the suspension of the right of deposit had produced, and to the confidence he had reposed in the good faith of Spain, whose officer had committed the wrong, he stated the propositions which had been made.—That the "enlightened Government of France saw with just discernment the importance of such liberal arrangements as might best promote the peace, friendship, and interests of both," and had transferred Louisiana to the United States. He also mentioned a recent convention with Great Britain for settling the boundary between her possessions and those of the United States. The revenue, he said, had exceeded their expectations. Three millions of debt had been discharged; and nearly six millions remained in the Treasury, but the recent purchase would add to it a sum of thirteen millions. He then adverted to the war in Europe, urged the nation

ana!!" What an exhibition of Madison by a leading, ardent member of the party which he had joined.

to adhere to neutrality, "to receive the armed vessels of the belligerents with hospitality from the distresses of the sea, but to administer the means of annoyance to *none*—to establish in our harbors, such a police as may maintain law and order, to restrain our citizens from embarking individually in the war; to punish citizens or aliens usurping the cover of our flag, to exact from every nation the observance of those principles and practices which all civilized people acknowledge, to merit the character of a just nation and maintain that of an independent one, preferring every consequence to insult and habitual wrong."

If the tone of this message betrayed a partiality for France; and, under the phrase "habitual wrong" was intended to convey a reproach on Great Britain regardless of the recent events as to Louisiana; if a tone so decided after a timidity so recent excited contempt and ridicule, this explicit and comprehensive recommendation of a neutral policy and of the measures to secure it, was too wise not to command the approbation of Hamilton. Content to see this great cardinal principle he had so long and so successfully contended for, thus adopted as a maxim of State, he did not care to comment on the inconsistency of the man who had *objected* to the Proclamation of Neutrality, who had sought to defeat its operation; who had endeavored to prevent the enactment of the salutary laws he now advised, and had stigmatized him, when the author of similar measures, as the partizan of England—"the evil genius of the country." Disgust at the hollow arts of the politician was merged in satisfaction at the triumph of the policy.

The treaty with France was immediately laid before the Senate. The stipulation that Louisiana be incorporated in the Union had transpired soon after the cession of it was known in this country; and objections were

raised against the constitutionality of this measure. Sensible of the vital importance of this acquisition, Hamilton labored to repress the opposition to it, and to inculcate on his personal friends the necessity of sacrificing every other to the one paramount consideration—the general welfare; and he was successful. He would not enter into a discussion of the constitutional questions, but silenced pertinacious hostility by the strong characteristic remark, —"It will not do to carry the morals of a monk into the cabinet of a statesman."

In the course of the debate on this treaty, the friends of the Administration insisted that the treaty power was undefined and unlimited; and that the clause in the Constitution which provided for the admission of new States justified this stipulation. It was answered, that the power of treaty was not defined, but that it was limited by the Constitution, and by the nature and principles of the Government; or else, parts of a Government, when acting separately, would possess more power than the whole acting together; for certainly the powers of Congress were restricted. The President and Senate cannot cede a State by treaty; where is found their power to introduce one? The States united as equal republics, to enjoy in the Senate an equal share of political power. Can several States be bought, composed, perhaps, wholly of a monarchical population, and admitted by treaty into the Union, enjoying by it all the immunities of American citizens, to outnumber and outvote the preëxisting parties to this great compact? Can the treaty power reserve to France commercial privileges which would, in certain contingencies, give a preference to the ports of one State over those of another—a preference expressly prohibited by the Constitution? What is to be done? France must release us from these forbidden, unconstitutional

stipulations, or, she refusing, we must conquer this territory, and hold it without violating the Constitution. Nothing short of the universal consent of all the States can ever be obtained to such a pernicious measure, as the admission of Louisiana, of a world, and such a world, into our Union.

These objections, happily, were not permitted to prevail; and on the twentieth of October the Treaty was ratified, seven Senators dissenting.*

Two days after, it was transmitted to the House of Representatives, in order to a provision for its fulfillment. A resolution was offered requesting the President to communicate a copy of the treaty of cession from Spain to France, a copy of the deed of cession, (if such existed,) and of such parts of the correspondence as related to the assent or dissent of Spain, and as would ascertain whether the United States had acquired every title to the province by the treaty with France. This resolution was resisted and defeated by a majority of only two votes, several of the Democratic members voting with the Federalists. The following day, a resolution to carry the treaty into effect was moved. The constitutional objections previously mentioned were again raised. They were met by arguments of little weight, but the bill founded on these resolutions was carried by a large majority, only seven members voting against it. It also passed the Senate.

A bill erecting Louisiana into two territories and providing for their temporary government also became a law. This bill provided that the Executive and Legisla-

* When the French Chargé was exchanging the ratification, he offered to annex a protestation against any failure of execution on the part of the United States within the prescribed time. So much did France regret her sale of it!

tive departments should be appointed and removable by the President. The powers of the territorial governor were ample. Those of the legislative council were declared to extend "to all rightful objects of legislation," if not inconsistent with the Constitution and laws of the United States, with a prohibition to tax the public lands.

Some of the provisions of this act were earnestly objected to, on grounds which ought to have prevailed; but after much discussion it became a law, one very important amendment having been proposed and adopted. It will be remarked, that this act extended over Louisiana, the laws for the punishment of crimes infringing neutrality, and also that respecting alien enemies.

The amendment referred to may truly be pronounced important, whether it is regarded as evidence of the existing prevailing sentiment of this country as to the extension of slavery, or as a direct, explicit, formal declaration by the Legislative and Executive departments of the General Government as to the controlling powers of the Constitution of the United States over their territories—of the full sovereignty of the nation over its property.

It will be recollected, that the Congress of the Confederation, in the year seventeen hundred eighty-seven, passed an "Ordinance for the government of the territory north-west of the Ohio," prohibiting the existence of slavery within that territory; that this ordinance was passed with the concurrence of all of the slave-holding States, one delegate alone dissenting; that it was passed while the Federal Convention which framed the Constitution of the United States was in session; that this Constitution, to supply a power not embraced in the articles of the Confederation, expressly conferred upon Congress "power to dispose of and *make* all needful rules and regulations respecting the territory or other property belonging to

the United States"—not the mere "right of exerting an ownership over this territory or property, which is implied in the definition of property,"* but that of instituting governments over it, with one only implied restriction to this power, that such governments should be republican; and that the first Congress convened under the Constitution passed an act sanctioning this "Ordinance," and conforming it to the Constitution.

This restriction upon the extension of slavery continued in force to this day as to the territory embraced in this ordinance. The only effort to suspend its operation, made in behalf of Indiana, so as to permit for a term of ten years the introduction into it of slaves born within the United States, from other States, after much consideration, failed. South Carolina had in the mean time repealed her law prohibiting the importation of slaves. To meet this emergency, Congress, at the time the application on the part of Indiana was pending, imposed a specific tax on every slave imported into any part of the United States; and, in order to give full effect to this law, it was so amended as expressly to include "the territories" of the United States.†

In the same spirit was the amendment to the act establishing territorial governments over Louisiana. It prohibited the importation into it from abroad of any slave, declaring the imported slave "entitled to its freedom." It also prohibited the importation into these territories from any place *within the United States* of any slaves that had been imported since the year seventeen hundred ninety-eight; and of all slaves, except those belonging to citizens of the United States removing there for actual settlement at the time of such removal, declaring all im-

* Hamilton's Works, iv. 122. † February 14, 1804.

ported contrary to this provision also entitled to their freedom.*

Though rejoiced at this great invaluable acquisition, there were those of the Democratic party who formed a just opinion of the negotiations and treaty accomplishing it.†

The inconsistency of the policy of Jefferson and of his partizans, previously adverted to, was seen at this time, in the establishment of a branch bank in New Orleans by a special law, introduced by a relative of Gallatin, who had also avowed himself hostile to "banking and funding systems," and approved by Jefferson.

After the bills to carry into effect the treaty and for the government of Louisiana had become laws, Jefferson declared, that the Constitution had made no provision for holding foreign territory, still less for incorporating foreign

* March 26, 1804.

† John Randolph to Monroe, 7th November, 28th year, (1803.) "Let me lay before you the impression which our late negotiation with France has made upon many of those whose good opinion you value. They are extremely hurt at the manner in which the provision has been made for American claims on the French Government. They cannot believe that the anxiety displayed on this subject could have originated with that Government. They regret that the two millions appropriated at the last session of Congress, and which the Treasury was in a condition to advance, were not applied to the purchase of Louisiana, and that these claims were not put on the footing (which they cannot conceive to have been difficult) of those payable in virtue of the seventh article of the treaty of London. They deprecate the necessity which the precipitation in relation to these claims has occasioned of opening a loan at least to the amount of $1,100,000, and they dread the effect of a possible and even probable defalcation of revenue." November 12, 1803—John Taylor, a Senator from Virginia, to Monroe: "Some of us, in the conversations above mentioned, have hazarded a surmise, that probably, arrangements objected to, were necessary, for the purpose of conforming to the French custom, requiring, that *their ministers* who make a great treaty, should be *made rich* by it, so that if you were subject to any such constraint, a very distant hint thereof will have great weight upon minds prepared to receive the impression."

nations into our Union. "The Executive," he avowed, "in seizing this, a fugitive occurrence, which so much advances the good of their country, have done an act *beyond* the Constitution."

Under this impression, he wrote to Nicholas, his leader in the Senate, "Whatever Congress shall think it necessary to do, should be done with as little debate as possible, and particularly so far as respects the Constitutional difficulty." * * * "I had rather ask an enlargement of power from the nation, where it is found necessary, than to assume it by a construction which would make our powers boundless. Our peculiar security is in the possession of a written Constitution. Let us not make it a blank paper by construction." Denying the extent of the treaty power, he observes, "Let us go on perfecting it, by adding, by way of amendment, those powers which time and trial shall show are still wanting." * * * "I confess, then, I think it important in the present case, to set an example against broad construction by appealing for new powers to the people. If, however," he adds, "*our friends shall think differently*, certainly, I shall *acquiesce with satisfaction*, confiding that the good sense of our country will correct the evil of construction when it shall produce ill effects." Marvellous language from the man whose chief claim to the gratitude of the American people was his rescuing them from Hamilton's efforts to establish by construction, an "unlimited government!" Where now, also, was Madison to proclaim, as of yore, the dangers of construction, "to a limited government tied down to the specific powers which explain and define the general terms" of the Constitution? Where was Giles with his clarion alarms? Where all the true friends of the people? Flagrant, as declared by Jefferson, was this violation of the Constitution, all these approved it; and Democratic

jealousy, wearied with previous watchings, fell asleep at the outposts. Not a sentinel was heard to interpose a challenge.

The declarations of Jefferson and the approval of the purchase of Louisiana by Hamilton, might lead to the inference, that, though concurring in this opinion, he from consideration of the great public advantages of this acquisition sanctioned this violation of the Constitution. This is not so. The views of Hamilton as to the powers of the Federal government, warranting all the subsequent acquisitions of territory, by the United States, are in strong contrast with the short sighted opinions of his adversaries, and of many of his supporters.

In the articles of Confederation entered into at a time when European alliances were regarded as among the most important means of securing the Independence of the United States, and of deriving the benefits of that Independence, no restriction upon the power of Treaty existed, except as to treaties of commerce. This restriction, inconsistent with the exertion of that power, and objected to as the ground of the refusal to treat by other nations, was one of the causes which induced the call of the Federal Convention. The Virginia Resolutions, the earliest submitted to that body, contain no provision on this important subject. The first precise provision relating to it is to be seen in Hamilton's plan of a Constitution, which enumerates among the "authorities and functions of the executive," "the power of making Treaties with the advice and approbation of the Senate." Though the nature and extent of this power was fully avowed, no effort to limit it can be traced in the proceedings of the Federal Convention. The only questions were as to the depository of it. This power was at first confided solely to the Senate, a proposition to require the

concurrence of the House of Representatives not being approved. This arrangement was reconsidered, and Hamilton's plan was adopted, a second attempt to require the sanction of the House of Representatives being rejected by the votes of all but one State. Finally, for greater caution, the concurrence of two-thirds of the Senators present was made necessary, the second article of the Constitution declaring that the President "shall have power by and with the advice of the Senate to make treaties, provided two-thirds of the Senators present shall concur."

In his most important comments on the Treaty concluded with Great Britain in ninety-four, Hamilton remarks:

"There is in no part of the Constitution any explanation of this power 'to make treaties,' any definition of its objects or delineation of its bounds. The only other provision in the Constitution respecting it, is in the sixth article, which provides, as already noticed, that all treaties made or which shall be made under the authority of the United States shall be the Supreme law of the land; and this notwithstanding any thing in the Constitution or laws of any State to the contrary." "It was impossible for words more comprehensive to be used than those which grant the power to make treaties. They are such as would naturally be employed to confer a plenipotentiary authority. A power "to make treaties," granted in these indefinite terms, extends to all kinds of treaties, and with all the latitude which such a power, under any form of government, can possess—the power "to make" implies a power to act, *authoritatively* and *conclusively*, independent of the after clause which expressly places treaties among the supreme laws of the land. The thing to be made is a treaty.

"With regard to the objects of the treaty, there being no specification, there is, of course, a *charte blanche*. The general proposition must therefore be, that whatever is a proper subject of compact, between nation and nation, may be embraced by a treaty between the President of the United States with the advice and consent of the Senate, and the correspondent organ of a foreign state. The authority

being general, it comprises, of course, whatever cannot be shown to be necessarily an exception to it.

"The only constitutional exception to the power of making treaties is, that it shall not change the Constitution, which results from this fundamental maxim, that a delegated authority cannot alter the constituting act, unless so explicitly authorized by the constituting power. An agent cannot new model his own commission. A treaty, for example, cannot transfer the legislative power to the Executive department, nor the power of the last department to the judiciary; in other words, it cannot stipulate that the President, and not Congress, shall make laws for the United States, that the judges, and not the President, shall command the national forces.

"Again there is also a *National* exception to the power of making treaties, as there is to every other delegated power, which respects abuses of authority in palpable and extreme cases. On natural principles, a treaty which should manifestly betray or sacrifice the private interests of the State, would be null. But this presents a question foreign from that of the modification or distribution of constitutional powers. It applies to the case of the pernicious exercise of a power, where there is legal competency. Thus the power of treaty, though extending to the right of making alliances offensive and defensive, might not be exercised in making an alliance so injurious to the State as to justify the non-observance of the contract. *Beyond these exceptions to the power, none occurs that can be supported.*"

"As to the intention of the Convention," Hamilton observed, "from the best opportunity of knowing the fact, I aver, that it was understood *by all*, to be the intent of the provision to give to that power the most ample latitude—to render it competent to all the stipulations, which the exigencies of national affairs might require—competent to the making of treaties of alliance, treaties of commerce, treaties of peace, and every other species of convention usual among nations, and competent, in the course of its exercise for these purposes, to control and bind the legislative power of Congress; and it was emphatically for this reason, that it was so carefully guard-

ed—the coöperation of two-thirds of the Senate being required to make any treaty whatever."

It had been objected, that the treaty with Great Britain conflicted with several of the legislative powers granted to Congress. After referring to these grants of power, and reconciling their exercise with the operation of the treaty power, Hamilton alludes to that authorizing Congress "to establish an uniform rule of naturalization. The power of Congress with respect to an uniform rule of naturalization is said to be interfered with by those provisions of the treaty which secure to the settlers, within the precincts of the British ports, the right of becoming citizens of the United States, and those which, in certain cases, remove the disability of alienism as to property."—In respect to this objection, he remarked:

"Though Congress are authorized to establish an uniform rule of naturalization, yet this contemplates only the ordinary cases of internal administration. In particular and extraordinary cases, those in which the pretensions of a foreign government are to be managed, a treaty may also confer the rights and privileges of citizens; THUS THE ABSOLUTE CESSION AND PLENARY DOMINION *of a province or district, possessed by our arms in war, may be accepted by the treaty of peace, on the condition, that its inhabitants shall, in their persons and property, enjoy the privileges of citizens.*"

This view is confirmed by reference to several treaties with Indians made under the Confederation, acquiring and ceding territory—a common feature of which, showing the extent of the power exerted, is, the *withdrawing the protection* of the United States from those of their citizens who intrude on Indian lands. Treaties with them, also, under this Constitution, regulated and changed the boundaries between them and the United States; and one relinquishes a large tract of land previously ceded.

This statement shows Hamilton's clear conviction, that

the United States had the power to acquire Louisiana by treaty; and, having acquired it, to stipulate for its inhabitants the privileges of citizens. A less power than this would involve the many dangerous consequences of compelling this nation, should emergencies lead it to purchase or compel it to conquer adjacent territory, to hold that territory as a dependency, without the right of conferring on its inhabitants the common privileges of this Union. Nor is it to be supposed, that the statesmen who framed the Constitution, long and recently as their attention had been directed to the securing an outlet to the trade of the Mississippi, were not looking to this acquisition, as an early instance for the exercise of the power of acquiring it by treaty, or by conquest. That the power of incorporating such territory into the Union was not intended to be excluded from the Constitution may be inferred from the alteration in the phraseology of that instrument, used in this respect. The "tenth Virginia resolution" declared—that provision ought to be made for the admission of States, lawfully arising *within* the limits of the United States. The articles reported by the committee of detail also contained this limitation;—but, on the discussion of them, this limitation was expunged, and the broader suggestion of the Jersey scheme was carried into effect—language equivalent to that in Hamilton's plan* being adopted in these comprehensive terms—"New States may be admitted by the Congress into this Union," with the sole restriction as to "a State formed within the jurisdiction of another State," as had been contemplated in Pennsylvania and North Carolina—or, "by the junction of two or more States or parts of States;"—

* In his Art. 9. Sec. 7. "The Legislature of the United States may admit new States into the Union."

that "the consent of the legislatures of the States concerned, as well as of Congress" be a pre-requisite.

When, beside the other great motives to this acquisition, that of preserving by it an "Unity of Empire," and the subsequent extension of this Republic over Northern America, thus enlarging its domain and filling up its glorious influences, are seen to have been primary considerations in Hamilton's mind, how strange to his ear would have sounded Jefferson's after language: "Whether we remain in one confederacy, or form into Atlantic and Mississippi confederacies, *I believe not very important to the happiness of either part.*"*

* Jefferson to Priestley. Jan. 29, 1804. Jefferson's Works, iv. 525, ed. 1854.

CHAPTER CLXIV.

After the enactment of the laws relating to Louisiana, the subject of impressment was revived by Logan; and a bill was introduced for the further protection of American seamen. It passed the House, but was postponed by a vote of two-thirds of the Senate.

An augmentation of the Navy, as the only efficient means of protecting the commerce of the country, was urged by the Federalists, but was opposed as involving an expenditure beyond its resources. The war with Tripoli had been long and unnecessarily protracted, until the wreck of a frigate, Jefferson declared, "renders it expedient to increase our force and enlarge our expenditure." The increased force was of two vessels to carry not more than sixteen guns, and as many gunboats as the President should choose to hire or accept on loan. The increased tax to meet the enlarged expenditure was an addition of two and an half per cent. to the existing ad valorem duties, and of ten per cent. on all imports in foreign vessels. The product of this tax would yield precisely the sum requisite to discharge the interest on the Louisiana debt. The loss of a frigate was the pretext for its imposition. It was called the "Mediterranean fund." Thus early was Hamilton's prediction verified, that the abolition of the internal revenues would induce

a surcharging of the imports—a policy he pronounced "incompatible with the interests not less of revenue than of commerce"! *

Though on the subject of impressment no arrangement had been made with Great Britain, yet her relations with the United States, since the treaty of ninety-four, had been of a pacific character. Some interruptions of their commerce occurred, but reparation for the injuries was ample and prompt. She had met the proposition of Jefferson for a removal of the discriminating duties by an immediate repeal of them. Her conduct in relation to Louisiana had caused to slumber for a moment the hostility, and had extorted the approbation, of Madison.†

With such dispositions on her part, when a general war was impending, after the difficulties that had attended the conclusion of that Treaty of Amity and Commerce, which, though some of its features might have been better, had essentially promoted the prosperity of this country, it would seem to have been wise to have prolonged it. The existence of the twelfth article, which related to the West India trade, was limited to a period of two years after the termination of the war with France; and although all the other, except the permanent articles, had a duration of twelve years, that duration was contingent on a new arrangement as to that trade. The peace of Amiens was made on the first of October, eighteen hundred one, and this treaty was suffered to expire on the same day, of the year eighteen hundred three:‡

* March 27, 1801. Gallatin reports the gross receipts from the internal taxes for that year as being $989,533 29—thus yielding, less the expense of collecting, (15 per cent.) the sum this additional tax on commerce was imposed to raise.

† Am. Ar., For. Rel., vol. 2, p. 562.

‡ Jefferson, iv. 20, writes Mazzei, July 18, 1804: "On the subject of trea-

The French councils had shown themselves extremely adverse to a renewal of this treaty, and strong remonstrances were made by this Government to Great Britain against any restriction or limitation on their trade with her colonies, or on the amount of tonnage of the vessels employed in it, with intimations of a resort to measures of retaliation. Pregnant as the moment was with dangers to England, she was not to be moved, and terms as advantageous as those of the expired treaty have not readily since been obtained.

Among other consequences of this unwise policy, the future history of this country will exhibit prominently the omission to secure the immunities to neutral trade, the principle of which was sanctioned by the awards under this treaty,* and which had been recently, explicitly, and formally recognized by the British Government†—an omission which left the American commerce an unprotected prey both to England and to France.

A short time after, a recent convention made with Spain was ratified. It provided for the appointment of Commissioners to award indemnity for all excesses committed by the individuals of either nation contrary to the existing treaty or the laws of nations—a species of compact denounced as unconstitutional by the party who now ratified it; when opposing the British treaty, on the ground that such commissioners were not included among the officers enumerated in the Constitution to be appointed by the President and Senate. One extraordinary feature of this convention should be adverted to. The aggres-

ties, *our* system is to have *none* with any nation as far as can be avoided." How different *his* system in 1783!

* Article 7th.

† Letter of Duke of Portland to the Commissioners of the Admiralty, March 30, 1801.

sions had been chiefly committed by French privateers, fitted in, and capturing within the harbors of Spain American vessels, which were condemned by French consuls, usurping in her ports Admiralty jurisdiction. Yet, in this Convention, "claims originating from the excesses of foreign citizens, against tribunals or consuls, in their respective territories, which might be imputable to their two Governments," are expressly reserved for *future negotiation!*

A Report was made at this Session in favor of the encouragement of Domestic manufactures. After referring to the several modes suggested by Hamilton in his celebrated Report, and regretting that Congress is deprived of the power to encourage manufactures, by imposing duties on certain domestic raw materials, if *exported*;* and applauding "the wise calculations and estimates of their predecessors in Congress, who devised the existing system of imposts," it proposed a large increase of duties. But no present necessity compelled this policy, as the so-called "Mediterranean Fund" would supply the wants of the Treasury.

Two other subjects of great importance were now acted upon definitively. A bill, which had been deferred at each preceding session, to repeal the Bankrupt act, passed, only thirteen members voting against it in the House. The Senate were nearly equally divided. The feeble support this act received is in part to be ascribed to the want of provisions which might have been added, and also to the manner in which it had been executed, owing to the change in the appointments made by

* The exemption of exports from duties, it is stated, was a concession in the Federal Convention to the growers of tobacco in Virginia and Maryland.

Jefferson soon after this law had begun to operate. Hostile to the measure, he made it the mere instrument of rewarding incompetent partisans. The Eastern States were eager to curtail the patronage of the President. The opposition of Virginia may be attributed to stronger motives. Her laws exempted lands from executions for the payment of debts. While the political power of that State was possessed by the landed interest, it was not to be expected that they would approve an act which defeated so favorite an exemption.

That a wisely-devised and well-executed, uniform and permanent system for the relief of Bankrupts is essential to a mercantile community, the subsequent and fluctuating legislation of the States, the refined interpretations of the National Courts as to the rights and the remedies of creditors, and the demoralizing opinions they have engendered, are pregnant proofs. The frequency of preferential assignments, the efficacy of a Bankrupt act in checking improvident speculations, chiefly by Corporations, and consequently improvident issues of paper securities, and the cruelty and impolicy of holding honest debtors, and considering them property, in bondage to their creditors, all unite in demanding early legislation under this express power of the Constitution.

Hamilton's contemplated amendment of the Constitution respecting the mode of electing a President and Vice-President was also now disposed of. The second of the amendments suggested by him, providing for the choice of electors *by the people*, was postponed. It had too much of a national character to be approved by a party which had risen to power through State influences. The first, in a modified form, was carried in the Senate by a bare constitutional majority, which was formed in the

House of Representatives by the casting vote of the Speaker.*

It has been stated, that the ratification of the treaty with France and the establishment of a government for Louisiana were the principal measures of this Session. Nothing could equal the adulation paid to Jefferson on the fortunate issue of this negotiation. Plaudits were heard, and incense rose wherever the Democratic party had sway. Washington never received at any moment of his illustrious life greater applause. The gratitude which then sprang unbidden from the hearts of the American citizens did not forget that, as friends of his great fame, they owed him the homage of an affection tempered with self-respect.

The dismay which the apparently inevitable rupture with France and consequent loss of power had produced, gave place to the most extravagant rapture. Alarmed, doubting, almost despairing, Jefferson had seen all the dangers of his feeble councils marshalled before him. Now all was peace and hopeful prospect. Every cloud was dispersed, every fear dispelled. He felt that it was no longer necessary for him to conceal his absolute temper; for never had a despot more absolute sway over his creatures than was his over the great majority of this Congress, who had been washed into power by the waves of Democracy. Never was a more implicit obedience rendered, nor the mere instruments of his will regarded with more contempt.† "They are," he said, after his re-

* In the course of this discussion, an amendment was offered to the effect, that no person who has been twice successively elected President, should be eligible a third time, until after an interval of four years; and then only for one more term of four years. It was not accepted.

† Life of John Randolph, by Garland, i. 242: "All those who were most prominent in the lead of affairs, were without reputation, without political ex-

tirement, when speaking of the two branches of the National Legislature, "they are mere chimneys to carry off the smoke."

On the twentieth of December, New Orleans was delivered to the United States. The successes of the Democratic party ought to have inspired moderation. Such unhappily had not been their effect. An officer of the army of the Revolution, one of this "phalanx," was removed to give place to a person who had been within the British lines, and who had been displaced for misconduct from an office to which he was appointed by Washington. Another officer of the Revolution was removed from the service in New York, to make room for an individual who had been a notorious adherent of the enemy. A favored partisan was appointed to a Judicial office, who, though a Lieutenant-Colonel, had deserted to the British, received a protection, and was declared guilty of high treason. St. Clair, Governor of the North Western territory, was dismissed, and doomed to mourn in penury in a rude hut among the cliffs of the Alleghanies, the ingratitude of his country. General Rufus Putnam, with whom Washington at parting on the banks of the Hudson had mingled tears, met a similar fate. Retiring penniless from the service to the remote Western wilds, where, covered with scars, he was laboring for a livelihood at the plough, Washington sought him out, and appointed him "Surveyor General of the territory North West of the Ohio." Of amiable manners and a temper too mild to become a partisan, Putnam could not have provoked the hostility of any man. This aged veteran, Jefferson also sought out, but

perience or information, *the mere hacks of a party*, possessing none of the qualities of head or heart that constitute the statesman, filled at the same time with all the narrow conceptions and the intolerance of political bigotry. *The reputation of not one has survived the age in which he lived.*"

to deprive him of office. How far the public interests were subserved by these concessions to party policy, was seen in an occurrence of this period. A man of profound learning and distinguished probity,* was removed from a most important office in New York. His successor was a convert who had threatened Washington with impeachment for having signed the treaty with Great Britain, and who had been an active supporter of Jefferson in the late canvass for President. This partisan subsequently confessed a judgment to the United States for one hundred thousand dollars, monies which he had abstracted. The intolerance was not confined to removals from office. An effort was made to intimidate Judicial officers. One Judge, who could boast Washington's marked approbation for his efforts to disabuse the public mind, was impeached by the Legislature of Pennsylvania.† Another was the subject of a procedure in Congress, which, both in the mode in which it commenced, in the manner in which it was sustained, and in the circumstances with which it was attended, recalls the most arbitrary period of English history.‡ It originated with Jefferson.

"You must have heard," he wrote to a member of Congress from Maryland, "you must have heard of the extraordinary charge of Chase to the Grand Jury at Baltimore. Ought this *seditious* and official attack on the principles of our Constitution and on the proceedings of a State, to go unpunished? And to whom so pointedly as yourself will the public look for the necessary measures? I ask these questions for your consideration, for myself it is better I should not interfere."§ On motion of John

* Richard Harrison, District Attorney of the United States.

† Judge Addison.

‡ Impeachment of Judge Chase.

§ Jefferson's Works, iv. 486, ed. 1854.

Randolph, a Committee of Inquiry into the official conduct of Judge Chase was appointed, which reported Articles of Impeachment. A trial was had, but a conviction failed for want of a constitutional majority of the Senate. That a President of the United States should be seen stimulating a member of Congress to the impeachment of a Judge of the Supreme Court from mere party motives and upon mere party grounds, is among the marvels of Jefferson's history. But one vacancy on the bench having been filled by an appointment from the conservative party, it was supposed that the attempted removal of Chase was not without a view to an early control of the Judicial power of the Government. In this attempt Jefferson failed, but the evidence exists under his own hand, that the motives for moderation having ceased, he had resolved to exert his patronage in a mode that would silence opposition. Ere his explicit pledges to the contrary were three years old, Jefferson ordered a public annunciation of the system of absolutism he had adopted—a system which has rendered this great Republic little more, as to its internal politics, than an arena of perpetually recurring party strifes.

An event which followed soon after the impeachment of Chase manifests Jefferson's disregard of those restraints which considerations of personal delicacy, as well as of official decorum and duty, ought to have imposed. Not long after the period which terminates this history, Aaron Burr, fleeing New York and New Jersey under indictments for murder, his official life having ended, became engaged in an enterprise, the objects of which were a severance of the Union and the establishment of a monarchy in the States west of the Alleghanies, to embrace Mexico, of which monarchy New Orleans was to be the capital. To gain adherents, the mines of Mexico were

held forth as the promised rewards. The enterprise was nipped in the bud, when Burr, abandoning his comrades and seeking safety in a lonely journey near the wild frontier East of the Mississippi, was arrested and carried to Richmond for trial on a charge of treason, where, though guilty of the offence, he was acquitted for want of sufficient evidence of an overt act.

At an early stage of this matter, and after Jefferson had stated that all ground of apprehension had ceased, although the "protection of the writ of Habeas Corpus" had been a topic of his Inaugural address, a bill for its suspension in certain cases was reported by his subservient partisans in the Senate. This bill, of gravest import, was passed by the Senate unanimously, in secret session, on the day it was reported, the usual rules for its being previously read having been dispensed with. After an interval of three days, it was taken up in the House "in confidence." Alarmed at the anticipated outcry of the nation, an ostentatious display of regard for the public rights of the people was then made. By a nearly unanimous vote, it was resolved, "that the message of the President and the bill of the Senate ought not to be kept secret; and that the doors be opened." With the eyes of the nation now fixed on this procedure, Eppes, the son-in-law of Jefferson, moved the rejection of the bill. In his speech, he avowed his disbelief of the necessity of authorizing a suspension "of the personal rights of the citizen," and the giving him "in lieu of a free Constitution the Executive will for his Charter;" declaring "that the discusssion of this question is calculated to alarm the public mind at a time when no real danger exists." This manœuvre to shield Jefferson from censure was felt to be necessary. The retreat of the House was as swift as had been the advance of the Senate; and forthwith, on the

same day, without even a reference to a committee, the motion of Eppes, for rejecting the Senate's bill, was passed by a vote of one hundred and thirteen affirmatives to nineteen negatives. Of these negative votes, two were given by leading members,* not less devoted partisans of Jefferson, than were the Committee† of the Senate who reported it. During this trial of Burr, Jefferson is seen, giving secret instructions to the officers employed in the prosecution. Nor was Marshall, whose course at the trial did not escape exception,‡ after the acquittal of Burr, exempt from his maledictions.

The instruction to be derived from the history of this period would be much narrowed were not a brief glance also taken of some of the early results of Jefferson's *foreign* policy, the evils of which nothing but the energy of the American character, acting under propitious circumstances, could have surmounted.

In anticipation of a possible collision with France,

* Bidwell and Varnum.

† Giles, J. Q. Adams, and Smith of Maryland.

‡ In the debate on a report presented by J. Q. Adams to the Senate, concluding with a resolution that John Smith be expelled that body for his "participation in the conspiracy of Aaron Burr against the *peace*, *union*, and *liberty* of the people of the United States," James A. Bayard remarked, "that such a conspiracy did exist, I firmly believe; and I further believe, that scarcely a man in the United States doubts it. Nor is it the question, whether the course pursued against Burr has been *as discreet* as it might have been, or whether *certain alleged subtleties* ought to have been discarded by the Courts of law." Giles is seen introducing in the Senate, a new act for the punishment of treason and other offences, framed to obviate a similar future decision to that pronounced by Marshall, which did not become a law. And Jefferson, some time, after, (Oct. 15, 1810,) wrote to Madison, "From the want of any counterpoise to the venomous hatred Marshall bears to the Government of his country; and from the cunning and sophistry within which he is able to enshroud himself, it will be difficult to find a character of firmness enough to preserve his independence on the same bench with Marshall."

forced upon him by public feeling, Jefferson has been seen in eighteen hundred and two, addressing a letter to the American Envoy at London, of earnest approach to England. A similar advance is seen the following year. "The events," he writes, "which have taken place in France have lessened in the American mind the motives of interest which it felt in that Revolution; and its amity towards that country now rests on its love of peace and commerce. We see, at the same time with great concern, the position in which England is placed, and should be sincerely afflicted were any disaster to deprive mankind of the benefit of such a bulwark against the torrent which has been for some time bearing down all before it. But her *power and powers at sea* seem to render every thing safe in the end." * Again he wrote, "Without befriending human liberty a gigantic force has risen up which seems to threaten the world." †

England had, meanwhile, rescued Louisiana from France. Jefferson's alarm was over, and two days later he wrote to "his intimate," the philosophising infidel, Cabanis, "Your government has wisely removed what certainly endangered collision between us. I now see nothing which need ever interrupt the friendship between us and France." * * * Then recurring to the theory of his "Report on the privileges and restrictions of the Commercial Intercourse of the United States with Foreign Nations," ‡ he observes, "We think that *peaceable means* may be devised of keeping nations in the path of justice towards us, by making justice their interest, and injuries to react upon themselves." §

* Jefferson's Works, iv. 491, June 30, 1803, to Sir John Sinclair.

† Ibid. 493, to the Earl of Buchan, July 10, 1803.

‡ Infra, v. 431.

§ Ibid. 497.

The injuries were not remote. A few months after the acts relating to Louisiana had passed Jefferson writes to Madison, "Still I conceive the British insults in our harbor as more threatening. We cannot be respected by France as a neutral nation, nor by the world or ourselves as an independent one, if we do not take effectual measures to support, at every risk, our authority in our own harbors,"* language very different from that held during the aggressions of Genet. But these were "British insults."

For dangers so near, so great, no preparations were seen. A show of energy was made by Jefferson, nothing more, for energy requires means, and means must be provided by equal energy, often hazardous to popularity.

In his message to Congress† he recommended "a considerable number of gunboats;" and leaving to "occurrences to decide" whether it will be necessary to augment the land forces, he submitted it to Congress "to consider whether it would not be expedient to class the militia." He added, that "considerable provision had been made, under former authorities from Congress, of materials for the construction of ships of war of seve ty-four guns. These materials are on hand *subject to the future will of the legislature.*"

The numerous captures by British vessels enraged the nation. The seaports poured forth memorials to Congress. Jefferson submitted to it a feeble confidential message. His "peaceable means" were at length brought forward in a motion by Gregg of Pennsylvania to suspend all further importations from Great Britain, until the captures and impressments were satisfactorily arranged; and

* Jefferson's Works, iv. 24, Randolph ed. August 15, 1854.

† December, 1805.

in accordance with Jefferson's wishes, a bill passed, on the fifteenth of April* providing that after the fifteenth of November next, a lapse of seven months, a number of specified articles should not be imported from Great Britain, or, if of her production, from other ports. Thus, instead of a navy to meet such injuries with the cannon's mouth, the "peaceable means," Jefferson's favorite ruling idea, were adopted. England was to be induced to change her aggressive policy on the ocean by a menace; and a bill to complete six ships of the line, the materials for which the Federalists had prepared, was put to sleep.

A new gleam of hope now broke upon Jefferson's disturbed dreams. The great War Minister, William Pitt, died. Fox succeeded. Jefferson wrote to Monroe now in place of Rufus King who had resigned, at London, as to his non-importation act. "It ought not to be viewed by the ministry, as looking towards them at all, but merely as the consequences of the measures of their predecessors, which their nation has called on them to correct. I hope, therefore, they will come to just arrangements." He pointed to the power of the United States to assure, by raising a naval force, were England or France "to give the money,—immunity on the Ocean."—"We wish for neither of these scenes. We ask for peace and justice from all nations; and we will remain *uprightly neutral*, in fact, though leaning to the opinion that an English ascendancy on the ocean is safer for us than that of France." Nor was Jefferson's abstinence from measures of effectual defense without a present motive, though of a partial policy. His "peaceable means" of non-importation would chiefly operate to the detriment of the navigating States, whose influence Jefferson was not unwilling to impair. But the security of the region now embraced

* 1806.

within the Southern limits of the Union was menaced. Alarmed for these anew, England was thus a second time approached with blandishments. The importance of her maintaining her "powers at sea" was again acknowledged; and a treaty with her was again negotiated and again concluded, William Pinckney and Monroe, in disregard of their instructions, omitting any present provisions against impressments, which England, as before, might be induced to discontinue, but refused so to stipulate. Though the terms of this treaty were, in some respects, more advantageous to this country, than those of the treaty concluded with Jay and sanctioned by Washington, Jefferson refused to ratify it. This he did, without submitting it to the Senate, his constitutional advisers, then in session, a course which Washington would not have been willing or dared to have taken. Not only did he sacrifice the immunity which the treaty of Jay had secured, but he made a relinquishment of the impressments of British seamen in American vessels, in the *narrow seas*, the *sine qua non* of a new treaty,* though the exception of these seas had prevented the signature of a compact, which, with that exception, would have secured the point Hamilton had sought to reach,—a stipulation by Great Britain, that "*no seaman should be impressed out of any of our vessels at sea*, and that none shall be taken out of such vessel *in any of her colonies*, which were in the vessel *at the time of her arrival at such colony*." This rash procedure of Jefferson is the more remarkable when his opinion is recalled to view approving a limitation of the protection to seamen in numbers proportioned to the tonnage; and "obliging American Captains to *parade the*

* American State Papers, F. R. ii. 782. Instructions of Madison to Monroe, January 5, 1804.

men on deck" to be inspected "by foreign officers,"* and when it was evident, that by Great Britain, in such a war, and with such an enemy, the exertion of her "powers at sea" was deemed vital to her existence.

England now regarding him, and justly regarding him as acting under the dictation of France, violated the national flag, fired into a national vessel, killing two of her seamen, impressing others, and was met by an interdiction of British men-of-war from the American waters!! "Peace is our passion" was Jefferson's language.

The securing of the ascendancy of the Southern States permanently over the counsels of his country, was more near to his bosom than the assertion of its honor and of its rights. This was to be further advanced by the acquisition of Florida. England had been approached to intimidate the Escurial, and next, with bended knees, Napoleon, now emperor of the French, was asked to control the submissive, abject councils of Spain. The prayer was met with haughty contempt.† The Navy had been reduced. Napoleon smiled at our impotence. "They believe," the American Minister at Paris wrote, "that we cannot do much, and the little we can do, we are not disposed to try."‡

A *confidential* Message had been sent to Congress by Jefferson, in which he stated the necessity of *means being*

* Infra, vi. 289.

† Armstrong previously writes to Monroe (March 12, 1804): "On the subject of indemnity for the suspended right of deposite, *they would offer no opinion.*" "On that of reparation for spoliations by Frenchmen within the territory of his Catholic Majesty, declaring that our claim, having nothing of solidity in it, *must be abandoned.* With regard to boundary, we have, they said, already given an opinion and see no cause to change it. In the event of a rupture between us and Spain, they answered, *we must take part with Spain.*"—Amer. State Papers, For. Rel., ii. 636.

‡ American State Papers, Foreign Relations, iii. 256.

placed at his command; but, avoiding all responsibility as to the course to be pursued towards Spain, he made no recommendation of any specific measure, a duty the Constitution imposed upon him. It was the same policy he had been seen recently pursuing, and which he had pursued, when presenting, as Secretary of State, his "Report on the Privileges and Restrictions of the Commercial Intercourse with Foreign Nations."

The Message being referred to Randolph, Chairman of the Committee on Ways and Means, he waited on the President, to receive his instructions. Jefferson informed him, "*that an appropriation of two millions was wanted to purchase Florida.*"* Randolph manifested his indignation at the duplicity which had concealed from Congress in his Message this contemplated purchase. Soon after, calling on the Secretary of State for a different purpose, Madison, after an explanation of the policy intended to be pursued towards Spain, declared, "that *France would not permit Spain to adjust her differences with us; that France wanted money; that we must give it to her, or have a Spanish or French war*"! "Good morning, sir," Randolph, abruptly retiring, observed,—"Good morning, sir. I see I am not calculated for a politician." Full of contempt for his servility, Randolph scornfully remarked, "Madison was always some great man's mistress—first Hamilton's,—then Jefferson's."†

* Life of John Randolph by Garland, i. 210.

† Randall, iii. 314. "Jefferson and Madison delighted to manifest their confidence in each other. When Madison was asked his opinion by a common friend, he *very often* replied by putting the question, 'What says Mr. Jefferson?'—Ask Jefferson for information, and he would not infrequently answer, 'Go to Mr. Madison—that was his measure—he knows a good deal more about it than I do.' On being told this, Madison would smilingly say, 'It was *his measure, not mine.* I only *helped* to carry it into execution." Randolph's expressive sarcasm will not, after this statement, be deemed inapposite.

The Committee reported in conformity to the Message of the President, and recommended, apologetically, an increase of the regular army. This was in accordance with Jefferson's official Message. A substitute was moved, carrying into effect his *private* views, appropriating a sum to open a negotiation for Florida. Randolph proposed that this sum be confined to that purchase, which was agreed to, but on the final passage of the bill, this specific appropriation was rescinded, and the money was left to be used at the discretion of Jefferson, so as to cover and meet, if expedient, Madison's contemplated douceur to France. The secret journal of the House was published, but this confidential Message of Jefferson was omitted.

Shrinking from the consequences of his own measures, though intelligence of the decease of Fox was received, Jefferson recommended a further suspension of his Non-Importation Act, and Congress acquiesced.

The double policy of the Administration was successfully practiced on the American people, but events were hastening to a crisis in their foreign relations which no duplicity could escape; and if met at all, could only be duly met by other than "peaceable means." How it was met was seen in the blighting effects of a system of national self-sacrifice, unheard of and unparalleled among the fatuities of the world. England, having reduced the Ocean to subjection, and seeing in the American carriers the only obstacle to her maritime hostilities, resolved to resort to a blockade. British "Orders in Council" followed,* and were met by French decrees. The neutral commerce of this Country was thus interdicted; and in the height of his impartiality between the two great warring powers, England and France, Jefferson proposed an

* November 11, 1807.

embargo, which was forthwith enacted.* John Quincy Adams, a son of the late President, whose new relations with Jefferson form part of a curious history,† approved it. "The President," he openly declared in the Senate, "has recommended this measure on his high responsibility. I would not consider. I would not deliberate. I would act. Doubtless, the President possesses such further information as will justify the measure;" and he was appointed an Ambassador! Champagny, the French Minister of Foreign Affairs, approved it, patting Jefferson on the head for this "great, this *courageous sacrifice* the Americans had imposed upon themselves;" and all France jeered at the "patient, heroic martyrdom." Napoleon

* December 21, 1807.

† Giles to Jefferson, December 15, 1825: "I presume you will well recollect, Sir, that Mr. Adams first intimated to you his intended change of politicks through me. The inducements suggested for this change, I think, substantially the following: that propositions had been made by certain British agents to many leading Federalists in the Eastern States, in the event of war between the United States and Great Britain, to separate New England from the rest of the States, and to enter into an offensive and defensive alliance with Great Britain; that the proposition was approved by many of them; that he had been consulted on its feasibility in giving it the sanction of his whole party; that his love of country became shocked at the proposition, and he had resolved to abandon a party who could be induced to countenance the treasonable project. After urging Mr. Adams to make his communication in person, and his refusal; at his request, and upon his authority, I gave you the information in substance, as above stated, according to the best of my recollection. As an inducement to Mr. Adams to call on you in person upon that occasion, I took the liberty of expressing a confident opinion to him that he would be treated by you with due respect and attention. I apprised you of this intimation to Mr. Adams, when you requested me to reassure him on the same point, which I accordingly did; and I understood that afterwards he had several personal interviews with you on the subject. I also informed you, at the same time, that Mr. Adams accompanied his communication with the strongest assurances of his entire disinterestedness, and that *he actually disclaimed all views of official preferment and personal aggrandizement in every form.*"

also approved it; and seized all the American vessels in the ports of France, for having violated a law of the United States, which, he felt, France, as *her* ally, was bound to aid in executing.*

Thus advised, Jefferson subsequently wrote to Madison: "If they keep up impressments, we must adhere to our non-intercourse, manufactures, and a navigation act." To England American vessels resorted for *licenses from capture*; and to Jefferson's entreaties that her "Orders in Council" would be revoked, in order that he might repeal his embargo, Canning tauntingly replied, stigmatizing it as having been enacted in subservience to the hostility of France; that, but for its character and purposes, "his Majesty would not hesitate to contribute, in any manner in his power, to restore to the commerce of the United States its wonted activity; and, if it were possible, to make any sacrifice for the repeal of the embargo; without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal, as a measure of inconvenient restriction on the American people." In this manner was this Republic badgered and buffeted—the subject of scorn and mockery by the two great powers of Europe in the face of the whole world.

Jefferson had, indeed, "avoided wasting the energies of the people," in giving to them the means of self-de-

* Randall, iii. 297: "The Emperor of the French was generally conceded to be a good judge of the effects of measures designed to annoy or to injure a national antagonist. He declared to R. L. Livingston, (a kinsman of Chancellor Livingston, then in France,) that the Embargo was a "*wise measure*;" and that "he did not wish us to go to war with England, knowing that we had no ships to carry on that war." R. L. Livingston to Jefferson, September 22, 1808. Jefferson's reply to Livingston, October 15, 1808. The reply, probably of an interesting character, is not in the possession of the author of this work. The quotation is given by Randall.

fence; and had prostrated those energies by his "peaceable means," but he had not "avoided being implicated by the powers of Europe."* Impressment, indeed, had almost ceased, for few there were of American seamen on the sea. The "Powers of Europe" indeed, had not declared war, but were waging the worst of wars, having driven the American commerce from the Ocean, and stifled its energies on the land. Still Jefferson felt an open war might come. To meet its near, its impending dangers, an increase of the little, disorganized, ill-commanded army was called for, to the number of *six thousand men.* This increase, if it could have no other use, furnished the opportunity of providing for hungry, discontented, disorganized † partisans. These were the regulars of Jefferson's camp. Duane, the editor of the "Aurora," was commissioned Lieutenant-Colonel of Rifles, and other editors were appointed to lower grades. A cognate use soon was found. A great military police was to be extended over the nation. Not relieved from his dilemma by the generosity of England, nor by the commiseration of France, Jefferson, finding his Embargo evaded, asked of Congress, which was duly granted, an "Enforcing Act."‡ Though, in aid of it, Jefferson was empowered to put in action the regular land force, and to call out the Militia; and the naval force, aided by thirty additional cruisers to be *hired*, with all the other aids of bonds and permits, searches of private dwellings under warrants, informers' paid oaths, prosecutions, fines and penalties, this tyrannous act also proved ineffective. He has been seen writing to Thomas Paine, in advance: "We

* Infra. vii. 483. Jefferson to Thomas Paine.

† Randall, iii. 358.

‡ Introduced into the Senate by Giles.

believe, we can *enforce* these principles" (of international justice) "as to *ourselves*, by peaceable means, now that we are *likely* to have our public counsels *detached from foreign views*." This belief was necessarily groundless; and in the fifteenth month of its dull, "wasting" life, the Embargo was repealed; Jefferson yielding, in part, his favorite theory to public clamor, issuing from the lips of angered, universal suffering. But, still unwilling to acknowledge his error, at his instance, a NON-INTERCOURSE act was subsequently passed,* excluding French and English vessels and their importations from the American waters, after a specified time. The American commerce was now liberated by him, to its own protection, on a great sea of troubles, swarming with unfriendly fleets, where the American flag, dishonored and unvindicated, was rarely seen; and then, or fluttering near the hugged shore, or unwillingly skulking along doubtful, lonely, unfrequented paths of ocean.

This sketch of his own policy and of himself, like only to the picture he drew after his flight from Richmond and resignation of his post of danger, was traced by Jefferson's own pen, two days† before the expiration of his term of office. "After using every effort which could prevent or delay our being entangled in the war of Europe, that seems now *our only resource*. The edicts of the two belligerents, forbidding us *to be seen on the ocean*, we met by an embargo. This gave us time to call home our seamen, ships, and property, to *levy men*, and put our seaports in a *certain* state of defence." "We have now taken off the embargo, except as to France and England and their

* February 11, 1809.

† March 2, 1809. Jefferson to Dupont De Nemours. Jefferson's Works, v. 432, ed. 1854.

territories, because *fifty millions of exports, annually sacrificed,* are the *treble* of what war would cost us; besides, that by war we should take something and lose less than at present. * * * But *all these concerns* I am now leaving to be settled by my friend, Mr. Madison. Within a few days, I retire to my family, my books and farms; and having gained the harbor myself, I shall look on my friends still buffeting the storm, with anxiety indeed, but not with envy. Never did a prisoner released from his chains, feel such relief as I shall, on shaking off the shackles of power. Nature intended me for the tranquil pursuits of science, by rendering them my supreme delight. But the enormities of the times in which I have lived, have forced me to take a part in resisting them, and to commit myself on the boisterous ocean of political passions. I thank God for the opportunity of retiring from them without censure, and carrying with me the most consoling proofs of public approbation. I leave every thing in the hands of men so able to take care of them, that if we are destined to meet misfortunes, it will be because no human wisdom could avert them." *

The prompt rejection by the Senate at this time of a person connected with him by the nearest ties, long the object of his favor, as Envoy in a "secret mission" to Russia, was one of "the most consoling proofs of public approbation." †

* Jefferson's Inaugural Message declared this country as he received it from the hands of the Federalists, as being "*in the full tide of successful experiment.*" Madison, his successor, avowed that, "*its situation was full of difficulties.*"

† Jefferson to Short, March 8, 1809. Jefferson's Works, v. 435, ed. 1854. "DEAR SIR:—It is with much concern I inform you that the Senate has negatived your appointment. We thought it best to *keep back* the nomination to the *close of the session*, that the *mission* might remain *secret* so long as possible, which you know was our purpose from the beginning. It was then sent in

The apprehended misfortunes, "human wisdom did not avert," for of human wisdom there was little in the Democratic councils to interpose; and Divine wisdom leaves perverse folly to its fate. "Misfortunes" soon came thick. The parsimonious economy, which was to pay off the national debt in eighteen years, produced, by the restrictions on commerce, an estimated annual loss to the United States of Fifty millions of dollars. The "peaceable means" of Jefferson led to a war which augmented the public debt more than sixty millions. These evils, great as they were felt to be at the time, were the lesser evils resulting from the early improvident, and unmanly Democratic policy. This great, this enduring evil has resulted. —The equipoises of the Constitution scarcely exist. The war forced upon Madison's timidity proved the utter weakness of the prevailing system. Defeat and disgrace attended the unprepared, suddenly collected levies. Jealousies from suspicions of governmental favoritism divided the first incompetent commanders. A void treasury sought relief from a direct tax, which could not be collected by the General Government, and was assumed by some of the States. Burdensome loans piled upon each other, told, in their terms, the discredit of the Administration, while a disordered currency and almost universal bankruptcy pointed back to the days when Hamilton's vigor marked every act of the Government, and public confidence rewarded its parental cares. The young life

with an explanation of its object and motives. We took for granted, if any hesitation should arise, that the Senate would take time, and that our friends in that body would make inquiries of us, and give us the opportunity of explaining and removing objections. But to *our great surprise*, and with *an unexampled precipitancy*, they *rejected it at once*. This reception of the *last* of my official communications to them, could *not be unfelt*, nor were the causes spoken out by them." The objection was not to the person, but to the mission.

of the nation outgrew all this, but as it grew the Executive office became less and less in true dignity and power. Jefferson had conceded them away, by his abject submissions to the fluctuations of the popular will; and these fluctuations have raised successively to office those who have adopted his maxim as their rule, that it is the duty of the Government, at any cost of principle or of policy, to please the people. Their temporary will has become the law of the moment, while that measured, salutary, prospective, provident will, the essential, noblest characteristic of man as an individual and of nations in their head, no longer is known. Thus it is, that while this page is written, a formidable Rebellion exists, requiring for its suppression all the energies and resources of the nation, which a timely, energetic exertion of the powers of the Government could have subdued in a month. Stern realities are now uttering themselves aloud, and one voice is heard——'had Hamilton's views prevailed this crisis could not have taken place.'

CHAPTER CLXV.

It is not to be supposed, while innovation and proscription marked the internal policy of the Administration, and its imbecile and improvident counsels ensured the consequences which followed, that Hamilton was wholly quiescent. He truly felt that every citizen of a Republic owes to its institutions his support, to the latest moment of his life; but the mode in which that support should be given was with him a subject of deep, conscientious consideration. A life of action for great and virtuous ends was necessary to the existence of such a man, but the feverish impatience for place and honor, which is the besetting sin of even the most distinguished statesmen, he knew not. Place, as the reward of service, he had never sought and had repeatedly declined, when proffered to him. Power he relinquished, when convinced that, as a private citizen, a more salutary and effective influence could be exerted by him over the councils of this country.

Looking closely into the character of the men now conspicuous upon the stage, and into the motives and tendencies of parties, he believed that a crisis full of danger to liberty and to Republican government was the near and inevitable result of the events he saw in progress; and he was convinced that he could best perform the du-

ties, which in such a crisis would devolve upon him, by a declared relinquishment of all aspirations to any, the highest station. Hence his frequent public avowals that, unless "called upon in the event of a foreign or *civil* war, he would never again accept any office whatever, either under the General or State government."*

It might be alleged, that such a disavowal, in the existing condition of public sentiment, involved no sacrifice, but foreseeing and foretelling, as he had done, the aggressions which would be made upon the commerce of the United States during the terrific conflicts of Europe, a restoration to power of the party which he had led, was not improbable. It has been stated, that he was not wholly quiescent; much room as there was for comment on the measures of the Administration, he now rarely employed his pen, but the expositions published in the leading Federal Journal were often at his suggestion, and sometimes passed under his review. To exhibit in his personal deportment the example of what a highly gifted, virtuous citizen ought to be, and in his professional capacity the model of an enlightened, conscientious, intrepid advocate, were the parts he had chosen for himself. How they were filled may still be traced in the reposing veneration for his memory and in the deep and proud affections which cling to his name.

The mere professional life of members of the bar, active, useful, and public as it is, rarely meets with its due reward. Making every sacrifice of personal ease, indefatigable, untiring, self-denying, devoted, ever-ready to serve the cause of truth and justice, the incorruptible and enlightened advocate sinks into the grave; and, except the sincere mourning of his professional brethren, the ser-

* New York Evening Post, February 13, 1804.

vices of a true and honorable life pass out of view, often without a record, almost without a public regret. Yet, who, especially in a republic, are the earliest to discern and to promote the public weal—the latest to despair of it? Even Hamilton, foremost among the first at the American bar, but for his intimate connection with public affairs and the memory of public service, might have been forgotten as a mere lawyer, together with the many able men of this profession, over whom a few years cast the mantle of oblivion.

But that such may not be entirely his fate, the imperfect mention which follows of his professional life, disclaiming any attempt at professional delineation, will, it is hoped, prevent. Nor can this be regarded as a wide departure from the true views and purpose of this history. For what is History, but the summed biography of Nations, a picture most instructive and pleasing, when tinted with that of individuals? Nor would a history of the origin and earlier periods of this nation, formed, it may be said, under the influence of positive law, rather than of custom, be truly written, which passed by in silence a notice of the infancy and development of its jurisprudence.*

In the course of this history, Hamilton's mind has been seen, at diverse periods, called into action on questions of jurisprudence. The essays of his earliest youth in vindication of the rights of the American colonies are pregnant with evidence of his analytical and synthetical powers, aided by researches among the writings of the great publicists of Europe. Nor did his military duties wholly in-

* Few works of more value to the American student could be written, than a carefully prepared view, both historical and philosophical, of the origin, progressive changes and present state of American law, Colonial, State and National, tending to elucidate and harmonize the two latter.

terrupt the exertion of those powers. "He was a man," it is stated, "of great and persevering study in the midst of the fatigues and exposures of the camp. The midnight lamp was burnt to light and to witness his profound studies there, preparing himself, like a polished shaft, for future usefulness in other scenes. This I know from those who knew him well during the war.* On the contrary, the extensive correspondence conducted by him as "the chief and most confidential aid" of Washington, shows the frequency with which he was called to grapple with many of the most difficult questions that arose in a conflict, begun and continued in the assertion of natural, inherent right against arbitrary or accustomed authority; in the assertion and exposition of belligerent duties, rights and immunities, in the discussions opened by the adjustments looking to peace—all having relations to foreign powers. With these were mingled nice and embarrassing points between the Federal and State governments, yet in an inchoate condition, to be brought as much as was possible into harmony by the application of general principles of constitutional, legal right and of equitable necessary obligation, forced upon the Chief of the Army, often compelled by circumstances to assume the office of a civil magistrate.

All that Hamilton wrote and thought, as an officer of the staff, important as it was, was of less moment than his plans, propositions and arguments to fix the foundations and raise the superstructure of a National Government, and these were but preparative to his services in the Congress of the Confederation, where his is beheld the leading mind, unfolding to view, and enforcing in special in-

* Henry W. Desaussure, Chancellor of South Carolina, to the author. Columbia, July 29th, 1835.

stances, amid and above the chaos of the Revolution, those maxims of political law, which have since become in this country, of universal controlling application and efficacy, and also in giving specific form to his previously suggested plans of Constitution and Administration. His services there caused "his character for genius, wisdom and eloquence to be every where known and acknowledged."*

When the contest of arms had ended, new topics of immense magnitude, affecting every interest, private and public, came up for adjudication in the Courts, and to these Hamilton passed, bringing, not only the teachings of reason and a large experience in affairs, but that warm wide humanity which can alone interpret between right and wrong, duty and passion, reconciling, while it interprets. How far had the laws of war conflicted with or suspended social rights? What proper immunities had been invaded? What indemnities due? What the remedies to be interposed? These inquiries brought up to consideration the binding and merging effects of treaties —their controlling powers and reciprocal obligations. And here again was called for that higher wisdom, rising to and mutualizing much that remained constructive, implied, resulting; arriving at the mean between positive and irreconcileable extremes, and as it harmonized, inculcating most healthful lessons of equitable, national, public justice.

Nor was this all then demanded of him, for it was his great part as a jurist to define and to mark the limits of National and State power, then obscurely and partially viewed in reference to Political compacts; asserting the due supremacy of the nation and the due subordinacy of the States, auxiliary thereto. Had Courts of equivalent

* Chancellor Kent's "Recollections."

jurisdiction existed, or had any Courts existed competent to and familiar with the discussion of such high matters, this would have been less difficult; but Hamilton's duty was not only to expound and illustrate the great subjects of international law and the rights derivative therefrom, but to open and raise the minds of the existing Courts to the majesty of the questions before them; and, as indispensable to the interests of a disorganized society, to lead them on to amplify without exceeding, their fairly constructive jurisdiction, inasmuch as the institutions of this country had not looked far beyond local or municipal affairs.

In the preparation of a treatise on "the Practice of the law," when none existed, in accordance with the recent statutes of the State of New York and with many of the forms in Colonial use, Hamilton had thoroughly examined and fixed in his mind a system of ministerial aids to justice. His comprehensive professional duties had disclosed to him the defects and suggested to him the needful correctives of that which then prevailed. "In the summer of seventeen hundred and eighty-four, Colonel Hamilton attended the Circuit Court at Poughkeepsie, and I had then an opportunity," Chancellor Kent relates,* "for the first time of seeing him at the Bar, as a counsellor addressing the Court and Jury." * * * "I was struck with his clear, elegant and fluent style and commanding manner. At that day every thing in law seemed to be new. We had no precedents of our own to guide us. Our judges were not remarkable for law learning. English books of practice as well as English decisions were resorted to and studied with the scrupulous reverence due to oracles. Nothing was settled in our Courts.

* Kent's Recollections.

Every point of practice had to be investigated and its application to our Courts and Institutions questioned and tested. Hamilton thought it necessary to produce authorities, to demonstrate and to guide the power of the Court, seen in the now familiar case of putting off a cause for the Circuit, and to show that the power was to be exercised, as he expressed it, "in sound discretion for the furtherance of justice."* "He never made any argument in Court," Kent adds, "in any case, without displaying his habits of thinking and resorting at once to some well founded principle of law, and drawing his deductions logically from his premises. Law was always treated by him as a science, founded on established principles." "He rose at once to the loftiest heights of professional eminence, by his profound penetration, his power of analysis, the comprehensive grasp and strength of his understanding and the firmness, frankness and integrity of his character. We may say of him, in reference to his associates, as was said of Papinian, omnes longo post se intervallo reliquerit." "His manners were gentle, affable and kind;—and he appeared to be frank, liberal and courteous in all his professional intercourse."

Referring to a particular case, Chancellor Kent proceeds: "Hamilton by means of his fine melodious voice, and dignified deportment, his reasoning powers and persuasive address, soared far above all competition. His preëminence was at once and universally conceded. The audience listened with admiration to his impassioned eloquence." * * * "In January, seventeen hundred and eighty-five, I attended the Supreme Court at Albany, and I had the satisfaction to see Colonel Hamilton come

* It is stated by Mr. Van Schaick that Hamilton originated the preparing "Points"—a practice now in general use.

forward as an advocate, on a much greater occasion and with distinguished lustre." Opposed to him was the recent Secretary of Foreign Affairs, Robert R. Livingston. "Hamilton was then at the age of twenty-seven, and had never before met and encountered at the Bar such a distinguished opponent. He appeared to be agitated with intense thought. His eyes and lips were in constant motion, and his pen rapidly employed during his opponent's address to the Court. He rose with firmness and dignity, and spoke for perhaps two hours. His reply was fluent, argumentative, ardent, and accompanied with great earnestness of manner and emphasis of expression. It was marked by a searching and accurate analysis of the cases, and a thorough mastery of all the law and learning applicable to the subject. * * * He demonstrated the fact, that the power of awarding new trials in the sound discretion of the Court had been recognized before the time of Lord Mansfield; and that it was a very reasonable and necessary power, and a vast amelioration and improvement of the trial by jury in questions of property. Without such a salutary control, the rights of property would be unsafe, and at the sport of ignorance and prejudice and undue influence; and trial by jury, instead of being deemed a blessing, would excite the disgust and contempt of mankind. The Court had no concern with the political opinions of Lord Mansfield, but it was due to truth to say, that his profound learning, clear intellect, and admirable judgment had elevated and adorned the jurisprudence of England; and by his wisdom and purity, while presiding over the English administration of law, he had deservedly gained the reverence of his own age, and his fame would rest in the admiration of posterity."*

* Chancellor Kent's "Recollections," also his "Address before the Law Association."

By this active professional life, Hamilton was prepared, when called upon, in the Legislature of New York to perform the important office of amending, reforming, and establishing the laws of that State, civil and criminal, upon the enlarged, and until recently, enduring basis of which a cursory notice has been taken. From these scenes of more limited, but ripening action, in which, as is the use in this country, he had performed the offices of attorney—special pleader, advocate, chamber, and bar counsel, and also that of Legislator; and had thus brought in play all the faculties and learning of his mind as a lawyer, he soon passed to that higher sphere of intellectual effort, the creation and constitution of a national Government—the source of law—for which his genius is acknowledged to have been eminently great. His commentary on the Federal Constitution places him next in view as the Expounder of that Government—an exposition almost immortal and cotemporaneous with his unwearied, unsurpassed efforts to establish it, calling forth all the full energies of his mental and moral nature, in argument, illustration, influence, and persuasion. It only remained to complete his career, that he should be charged with the administration of that Government in all its higher functions. This he was, and how large and frequent the demands were, in the direction and defence of that administration, upon his constructive, and deliberative, expository and vindicatory abilities, as a Constitutional and Political lawyer, it has been one of the chief objects of this history to show, and his writings attest.

"Hamilton," Kent relates, "returned to private life and to the practice of the law in New York in the spring of ninety-five. He was cordially welcomed and cheered on his return by his fellow-citizens. * * * Between this year and seventeen hundred and ninety-eight, he took his

station as the leading counsel at the bar. He was employed in every important and every commercial case. He was a very great favorite with the merchants of New York, and he most justly deserved to be, for he had shown himself to be one of the most enlightened, intrepid, and persevering friends to the commercial prosperity of this country. Insurance questions, both upon the law and fact, constituted a large portion of the litigated business in the Courts, and much of the intense study and discussion at the bar. Hamilton had an overwhelming share of this business. * * * His mighty mind would at times bear down all opposition by its comprehensive grasp and the strength of his reasoning powers. He taught us all how to probe deeply into the hidden recesses of the science, and to follow up principles to their far distant sources. He was not contented with the modern Reports, abridgments, or translations. He ransacked cases and precedents to their very foundations; and we learned from him to carry our inquiries into the commercial codes of the nations of the European continent; and in a special manner to illustrate the law of insurance by the secure judgment of Emerigon and the luminous commentaries of Valin. * * * My attention was attracted by a single fact, which fell under my own eye, to the habit of thorough, precise, and authentic research which accompanied all his investigations. He was not content, for instance, with examining Grotius, and taking him as an authority, in any other than the original Latin language, in which the work was composed." * * * "My Judicial station in seventeen hundred and ninety-eight brought Hamilton before me under a new relation, but the familiar, friendly intercourse between us was not diminished, but it kept on increasing to the end of his life. At Circuits and in term time, I was called, in a thousand instances, to

listen with lively interest and high admiration, to the rapid exercise of his reasoning powers, the intensity and sagacity with which he pursued his investigations, his piercing criticisms, his masterly analysis and the energy and fervor of his appeals to the judgment and conscience of the tribunal, which he addressed. If I were to select any two cases in which his varied powers were most strikingly displayed, it would be the case of Le Guen *vs.* Gouverneur & Kemble, argued before the Court of Errors, in the winter of eighteen hundred; and the case of Croswell *ads'* the People, argued before the Supreme Court in February term, eighteen hundred and four."*

On his departure for Albany to argue the former of these cases, Hamilton left one of his children indisposed. He refers to this in a letter to his wife: "I wrote you two or three times last week, but since my last I have received another letter from you which does not remove my anxiety. The state of our dear sick angel continues too precarious. My heart trembles whenever I open a letter from you. The experiment alarms me, but I continue to place my hope in heaven." He again wrote: "You will easily imagine, my dear Eliza, how much I have been relieved by the post of to-day. My darling infant is then recovered. Happy news, and very contrary to my apprehensions. Let us unite in thanks to that kind being who has thus far protected our little family and ourselves; and let us endeavor, as far as in us lies, to merit a continuance of his favor. Tuesday next is appointed for bringing on the argument of Le Guen's case. The moment it is finished, I shall hasten to you." The case referred to was a suit commenced, under his advice, by Louis Le

* Chancellor Kent's "Recollections," also his "Address before the Law Association."

Guen, a native of France, to recover the value of merchandise from his factors who had sold it for him, reserving to him an election to receive payment in France, whither he intended returning, or in the United States. The factors were members of a leading mercantile house in the City of New York. The purchasers, a firm composed of individuals of the Jewish faith.

A protracted negotiation preceded the suit at law in which a verdict was, in the first instance, rendered for the factors. It was set aside after a very elaborate discussion before the Supreme Court, and on a new trial the plaintiff recovered a sum of one hundred and twenty thousand dollars. On an appeal to the Court of Errors, this judgment was confirmed by a large majority of that body.

A bill had been meanwhile filed in the Court of Chancery, and an injunction granted to stay the execution of the judgment. In order to open anew the merits of the controversy, an issue at law to try the question of fraud was ordered by Chancellor Livingston. From this order an appeal was also made to the Court of Errors. The grounds of the claim were, that the factors had not elected in obedience to the instructions of their principal to receive the proceeds in Europe, and their refusal to authorize him to receive the surplus of those proceeds, after deducting a sum sufficient to cover their claims.

The magnitude of the demand, the course of the proceedings, the long continued and embittered litigation had excited much feeling in the community, whose leaning was in favor of the factors. Hamilton wrote his wife: "I drop you a line to tell you, that I am well, and that to-day the hearing of Le Guen's cause began. I fear the prepossessions are strongly against us. But we must try to overcome them. At any rate, we shall soon get to the close of our journey, and, if I should lose my cause, I must

console myself with finding my friends. With the utmost eagerness will I fly to them."*

In every stage of the contest Hamilton's exertions had been unremitting. "To the overbearing weight and influence of his talents" was chiefly attributed the success of his client. In the Court of last resort, where it was supposed, that the result would mainly depend on the ability of the advocates, Gouverneur Morris, a relative of one of the defendants, appeared as his counsel. Harrison and Burr were associated with Hamilton.

His argument opened with an examination of the preliminary question, whether the alleged fraud was then examinable. He adduced authorities to show that Courts of law and equity had concurrent jurisdiction in matters of fraud. That where there had been an opportunity to try the question by one competent tribunal, having had cognizance, and having decided, it cannot afterwards be examined by another; but where there is an equally actual remedy at law, equity will not interpose. The conclusion from these propositions was, that this being a question of fraud, which would have been a good defence at law, and the respondents having had full notice of all the facts, they were too late. He then proceeded with a close review of the immense mass of evidence which had been taken at law, and of the pleadings in Chancery. The nature of the testimony, the character of the witnesses, their respective credibility, all called forth his powers of analysis. The minute and long investigation resulting in a complete vindication of his client from the imputation of fraud, the cause was left before the Court upon its substantial merits. This speech occupied six hours in its delivery. Gouverneur Morris addressed the

* February 5, 1800.

Senate, in reply. He stated that this was "the clearest cause he had ever met with." That it was not to be expected that any judge would be unwilling to be wiser to-day than to-morrow. That he could not see a "victim immolated," and as to what he had to say, he would want no books, but would appeal to principles written on the heart of man." He then called upon the Court, sitting in judgment on the life and fame of the parties, to preserve themselves cool and dispassionate, while he proceeded "with reluctance to fix upon Le Guen the charge of fraud." "There was," he said sarcastically, "much extenuation for him. Immoral acts are not always morally wrong. On the turf it was considered no harm to cheat. In a foreign country it was no harm to cheat. The proceeding of the plaintiff was only a game of brag." He then canvassed the evidence. "He would not," he observed, "plague the Court with balancing Tom, Dick, and Harry's testimony about the prices of the articles, but would state the evidence on the part of the appellants to settle the case, and prove a gross deception by their not having a competent knowledge of their qualities."

He next considered the credibility of the plaintiff's witnesses. They were dependent,—volatile,—had too much imagination. After various observations, which showed the fertility of his fine genius, but also his great disadvantage, arising not only from the erratic character of his mind, but from his want of legal perspicacity, and professional habits, "Why," he asked, "were these JEW witnesses considered as unworthy of credit? Are they persecuted or degraded? These JEWS are in a capacity to be every thing! Destroy the credit of the Jews, and you destroy the Christian religion!" Then poising his colossal form, and heated with his imaginary triumph, pointing at Hamilton who sat near him, he proceeded to

attack him; concluding with a double allusion to Burr, that before Hamilton reached his point, he would be compelled to exclaim, "Help me, Cassius, or I sink."

Hamilton arose, and asked the Court as a favor, the cause having taken so unusual and unexpected a turn, to grant him the privilege of replying. Sensible of the treatment he had received, the Court, Lansing alone dissenting, acceded to his request, and adjourned until the following day. As he was about to retire to his chamber, he observed to a young clerk, "This speech has made a great impression, has it not?" The lad replied, "It had." "How then do you think it should be met?" "In the same manner," was the intelligent reply. The hint confirmed his purpose.

The following day, he addressed an immense auditory, excited by the previous exhibition, and waiting the issue with breathless expectation. That Hamilton's effort would be great—that he would not relinquish easily the professional laurels so many years had earned, to one who, recently returned from Europe, appeared to have sought this occasion to display his superiority, was felt by all. Yet in wit he rarely indulged publicly, in sarcasm more seldom—his kind nature forbade it; and without these what could he effect?

He commenced, thus exhibiting that he was unhurt by the arrows of his antagonist, with an allusion to another of the opposing counsel, who had worked himself into tears. "The gentleman," he observed, "reminds me of a scene with a female client. The old woman begged me, while I listened patiently to her tale, hoping something might come out, to urge such and such matters, going over all her domestic griefs, and concluded with saying, 'When you come to that, oh! if you would only cry a little!' 'Ah! madam,' I replied, '*that* I must leave for

you!'" He then, without touching the merits of the cause, proceeded for three hours in a flow of pleasantry, and wit, and poetry. Among other things, he said: "The gentleman disclaims the use of books—black-lettered books—and says he appeals to the volume of nature, written in the hearts of men. He says, that his long absence from the bar has caused him to forget the decisions of the Courts; may it not be accounted for on another principle, that,

"'Where beams of warm imagination play,
The Memory's soft figures melt away'?

I confess my necessities; I confess, I feel myself often compelled and glad to appeal to the collected and matured wisdom of former ages, to books of the black letter, to sources of information, wherever to be found. I would appeal, also, as the gentleman has done, to those pure and bland creations, the stars! He describes them with such eloquence, that I can never be more pleased than when his imagination rises to objects so bright and pure. He says to me, 'You follow me in vain.' Alas! it is too true; I cannot follow him. I would appeal to the light of the gentleman himself, were he a fixed planet; but his is a wandering, wandering, wandering light, sometimes a wild and brilliant comet, burning, corruscating, alarming, but never harming. He asks, 'Why distrust the evidence of the Jews? Discredit them, and you destroy the Christian religion.' Has he forgotten what this race once were, when, under the immediate government of God himself, they were selected as the witnesses of his miracles, and charged with the spirit of prophecy? or how changed when, the remnants of scattered tribes, they were the degraded, persecuted, reviled subjects of Rome, in all her resistless power, and pride, and pagan

pomp, an isolated, tributary, friendless people? Has the gentleman recurred to the past with his wonted accuracy? Is it so, that if we discredit these then degraded Jews, we destroy the evidence of Christianity? Were not the witnesses of that pure and holy, happy and Heaven-approved faith, converts to that faith?"*

Allusions had been made to France, the birth-place of Le Guen. Hamilton, passing from the domination of Rome, portrayed, in all its vast and terrible dimensions, the immense, increasing power of France, the modern Rome, scoffing at the nations sitting at her feet. "But Justice," he exclaimed, "in private cases, knew no birth-place, no dominion, no power of earth. Born in heaven, her home was, and ever would be, wherever right was to be administered—wrong redressed; and be the injured party, or Jew, or Gentile, or Christian, or Pagan, Foreign or Native, she clothes him with her mantle, in whose presence all differences of faiths or births, of passions or of prejudices—all are called to acknowledge and revere her supremacy."

After a long-sustained skirmish, during which Morris sat the perturbed object of this light warfare, with the perspiration pouring from his brow, Hamilton, exclaiming, "But let us have done with this trifling," closed his speech with a condensed summary of the points of the defendants' case, showing what their cause might have been in his hands. So strong was the impression made by him,

* "The state and progress of the Jews," Hamilton remarked elsewhere, "from their earliest history to the present time, has been so entirely out of the ordinary course of human affairs, is it not then a fair conclusion, that the cause also is an *extraordinary* one—in other words, that it is the effect of some great providential plan? The man who will draw this conclusion, will look for the solution in the Bible. He who will not draw it ought to give us another fair solution."

that it seemed as though there was no alternative but to vote for the defendants. He then answered each of the marshalled arguments in succession, and completely demolished the structure he had raised. Though his client was a foreigner, a Frenchman, a citizen of the country from which the United States had so recently suffered by accumulated wrongs and indignities, these defendants, American citizens, strong in their connexions, and sustained by wealth and talent, Hamilton carried his cause.

If the writings of Morris have extorted the criticism, or sometimes betray that he never forgot this defeat, justice demands it should be remembered, that he bore unequivocal testimony to Hamilton's unrivalled eloquence. "We all thought we knew him," was the remark of another of the opposing Counsel at the conclusion of his speech, "but we knew nothing of him." "I thought myself something," observed an eminent member of the Court, "but I find I am a pigmy."* Hamilton, after he had retired from the Court, observed to a near connection, "I am satisfied with the effort."

The successful termination of this case, involving nearly his whole fortune, commanded the unbounded gratitude of the client. He waited on Hamilton and offered him a fee of eight thousand dollars, insisting that it was a sum he had justly earned. In spite of his expostulations, Hamilton peremptorily refused to receive more than a thousand dollars, which, he said, was a full compensation.†

* Chancellor Kent.

† "Mr. Le Guen told me that, his suit having been gained, he first waited on General Hamilton and offered him a fee of eight thousand dollars, which he thought he had justly earned; and that, in spite of his efforts to make him take the whole, he peremptorily refused to receive more than one thousand dollars, which, he said, were fully sufficient; and, in fact, received no more.

Hamilton, during his visit at Albany, was engaged in various cases of magnitude. One of these involved important questions on the law of blockade, in which he commented with great earnestness on the violent retaliatory doctrine circumstances had led the English Government to adopt, contending that the only definition to be admitted was that of the law of nations, that it must be actual, visible, so as to prevent manifest danger from entering by a controlling force. He remarked at its close, "The Jury have decided metaphysics."

The case of Croswell at the suit of the People was one of the most important and sacred character that could be presented before a Court of Justice, for this may surely be said of a question of the Liberty of the Press. The influence of Hamilton's pen on the character of the American Press has been previously adverted to, nor has it been unnoticed in a series of able comments on the Press of the United States.*

Its courage at the earlier periods of the American contest was not less than its decorum; and one of the most injurious influences which has since been exerted on the American character has been that of a licentious press, so that the question has often arisen whether the evils of its license were not greater than the benefits of its freedom. Certain it is, that to this license may be traced the rapid descent of this Republic from the commanding moral position to which it had been raised, during the few years, while Washington was at the head of the Nation. But, though dark and ominous clouds were

Leaving General Hamilton, Mr. Le Guen went to Mr. Burr's and made him the same offer, which he received without difficulty; and a few days after, borrowed of him another eight thousand dollars, which he never paid." Letter from P. S. Duponceau.

* Revue des deux mondes.

seen lowering over the horizon during the years which followed, Truth still asserted the majesty of her power. Religious, moral, political truth, driven out from the Government, found champions among the Federalists, as firm as their homage to it was enlightened and sincere. The late renewed attacks upon the Judiciary could leave no doubt of the intentions of the prevailing party. The threats which were thrown out, and the circumstances which preceded these threats, indicated that which was to follow. Could the independence of the Judiciary be reached, what was there to prevent its becoming the instrument of oppression?

The writhing torture of Jefferson under the free and frequent exposure of his character, he could not disguise. A more acceptable tribute could not be offered to him, than an exhibition of public sympathy. When impeachment was threatened for his desertion of his State at the moment of her greatest peril, his arts had drawn from the Legislature of Virginia a vote of vindication. What might have been difficult then, was now easily accomplished. A hint was sufficient to awaken anthems in his praise. At the first session of another legislature of that State, after the proofs had been divulged of his degrading intercourse with Callender, a Resolution was offered in that body. The preamble declared, that "the extreme licentiousness of the Federal Editors has been such as to require a corrective; and as it is highly impolitic, as well as unconstitutional, to place any legal restraint on printing presses, the only mode of counteracting the baneful effects of such publications should be by an expression of the public will." The Legislature, therefore pronounced "its disapprobation of the unprincipled attacks upon the character of the President; their unequivocal and decided approbation to *every* part of his conduct, as far as it had

come within their knowledge;" and declared, "there was no man in America who deserves more of the confidence and support of the people of these United States, than the enlightened, philosophic, benevolent, and patriotic Republican Thomas Jefferson."* Soon after, Giles avowed his determination to impeach Washington† and Paterson, Justices of the Supreme Court of the United States.

The interval between Legislative denunciation of the Press and attempts upon its Liberty is not great. The Federal Editors saw, while they scoffed, at the dangers menaced. It was ere long ascertained at Washington that a system of prosecutions had been concerted.‡ Who in this vast Republic would be bold enough, first to raise his arm: or where the blow would fall, could not be conjectured.

Though by the great mass of mankind Judicial oppression is the foulest object of abhorrence, yet there are those upon whose countenances and characters, Nature has traced her deep, indelible lines with an iron pencil. Men who do not wait the mandate, but solicit the privilege of ministering to intolerance.

To produce the hoped result, the attempt must be made in a vicinity where it was most important to overcome the Federalists. The air of cities is uncongenial with oppression. It is among lone, minor populations, where the timid hind trembles before the law encircled magistrate, and submission is a habit, that it first seeks its victims. A small press had been established in Hudson,§

* Similar views are taken in a subsequent message of Jefferson to Congress.

† The nephew of General Washington. Bushrod Washington.

‡ "A scheme has long been in agitation at the Seat of Government to stop by the terrors of the Common Law the freedom of the Press."

§ Then a small settlement on the river of that name.

under the charge of an editor, distinguished for his intrepidity, his talent and his wit. In the "Wasp" edited by Henry Croswell,* this paragraph appeared. Holt† says, "the burden of the Federal song is, that Mr. Jefferson paid Callender for writing against the late Administration. This is wholly false. The charge is explicitly this—Jefferson paid Callender for calling Washington a traitor, a robber and a perjurer; for calling Adams a hoary headed incendiary; and for most grossly slandering the private character of men, who he well knew were virtuous. These charges, not a Democratic editor has yet dared, or ever will dare to meet in open and manly discussion."

It is a confirmation of the remark that it was resolved to commence the experiment upon the freedom of the press by prosecuting a village paper, that the charges in the indictment relate to matter previously published in the leading Federal Journal, in the City of New York, and were extracted from that Journal.‡

A day or two previous to the sitting of the County Court of Sessions, of Columbia County, a bill of indictment for this publication was prepared by the Attorney-General residing there, and a list of a Grand Jury composed of twenty-four Democrats was made out by him, and given in his own hand to a Democratic sheriff. This jury appeared in Court at an early hour of its session, and presented the indictment, thus previously framed, as a true bill. The Justices of this Court had been appointed by the Democratic party, held their offices for a term which had nearly expired, and were dependent for the

* Since, a much respected pastor of the Episcopal Church in New Haven.

† The publisher of a Democratic paper in Hudson called "The Bee."

‡ The Evening Post, edited by William Colman, under the auspices of Gen. Hamilton, Gouverneur Morris, Col. Troup, John Wells, and other Federal gentlemen.

renewal of their commissions on that party. The counsel of the accused demanded copies of the Indictment before they should be compelled to plead, alleging that copies could not be obtained, in the usual way, from the clerk, for the reason that the Indictment had never been left with him. The Attorney-General, Ambrose Spencer, opposed the demand with vehemence. The accused appealed to the Court. The Indictment was long and unintelligible; and to compel a plea without a copy of it was to entrap the accused and jeopard the defence. A majority of the Court rejected the application, and ruled that a plea be immediately entered.

Croswell pleaded not guilty. His counsel then urged, as the law of libel was extremely intricate in England, and little known in the United States, that the trial be postponed to the Oyer and Terminer, at which a Judge of the Supreme Court would preside. This was objected to by the Attorney-General, and the County Court refused to interfere.

It was then stated, that, upon the face of the Indictment, it appeared, that the witnesses to prove the truth of the charges resided in Virginia; and that time was requisite to obtain their attendance. Spencer objected to the postponement of the trial, insisting that the TRUTH could *not* be admitted in evidence, as a justification; and, therefore, if such evidence could be obtained, it would not avail him; that the only question was, whether the editor had published the libel, and therefore the postponement ought not to be granted. The Court refused to postpone. On the following day, an affidavit was offered stating the intention and expectation of the accused to prove the truth of the charge; and a postponement of the trial was again moved. Spencer at last abandoned his opposition, and the trial was appointed for the next Court

of Oyer and Terminer. The Attorney-General then demanded that the editor, who had entered into a recognizance for his appearance at this Court, should give security for the peace, and for his good behavior. This demand, before any offence was established or threatened, was resisted, as involving a violation of his liberty as a citizen of the United States—as a direct attack upon the freedom of the press, and in open hostility to the principles of the Government. The Attorney-General persevered, but, after much discussion, the Court, with but one dissenting voice, denied the motion. A certiorari was, after some opposition, allowed. These proceedings kindled the indignation of the Federalists. They waited on General Schuyler at Albany, who, at their instance, wrote to Hamilton, requesting him to aid in the defence. The sitting of a Court in the city of New York did not permit Hamilton's presence; and, on the eleventh of July, the cause was called. The accused then presented an affidavit that he could not safely proceed to trial without the attendance of Callender, and asked a postponement. The Chief Justice, Morgan Lewis, presiding, decided, after argument, that the trial should proceed, on the ground, that the evidence of the truth of the charge for which the defendant was indicted could not be given to the Jury. The fact of the publication being proved, and the counsel having been heard, he charged the Jury, "that the defendant had contended that in cases of libel, it was the peculiar province of the Jury to decide upon the law and the fact, and to determine whether the defendant had been guilty of maliciously publishing a libel or not. His opinion was directly the reverse. Libels were an exception to the general rule, that in criminal cases, the Jury were judges both of the law and the fact. It was the province of the Court to determine whether the defendant

was guilty of publishing a *malicious* libel. He read the opinion of Lord Mansfield in the case of the Dean of St. Asaph; and charged that the doctrine there laid down was the law of the State. That the Jury had no right to inquire or decide on the intent of the defendant—that the only questions for their consideration and decision were, whether he was the publisher of the libel, and were the inuendoes true? Whether the publication was true or false, libellous or innocent, the intent innocent or malicious, the Jury still were bound to find a verdict of *guilty*. That these questions would appear on the return of the Postea, and were to be decided *exclusively* by the Judges of the Supreme Court; and that it was not his duty to give an opinion on these points. That justice was impartial, and that Judges always left party spirit at the footstool of the judgment-seat."

The Jury retired at the setting of the sun, remained out the night, and on the following morning returned a verdict of "*guilty*." A motion for a new trial was made, on the ground of the misdirection of the Judge, and, that the truth was admissible evidence.

This verdict produced a deep sensation throughout the country. Though there were English precedents for this decision, yet the people of New York adverted with pride to an early incident in their Colonial history, when in despite of a peculiar charge of the Court, the Jury acquitted the defendant.*

* The case of John Peter Zanger in 1732. This case was argued before the Supreme Court of the colony of New York upon an information of libel in the year 1734, by Andrew Hamilton, of Philadelphia. "It is," Mr. Binney remarks in his "Leaders of the Old Bar of Philadelphia," "it is, however, worth remembering, and to his honor, that he was half a century before Mr. Erskine and the Declaratory Act of Mr. Fox, in asserting the right of the Jury to give a general verdict in libel, as much as in murder; and in spite of the Court, the Jury believed him and acquitted his client."

Were a Jury of the free people of a Republican State less alive to the value of freedom of discussion than a Jury of Colonists? Had the common law, upon which they claimed to exercise the right of judging of criminal intent, been abrogated by intervening decisions of Courts? Was the doctrine true, that, in declaring independence, they had relinquished all the valued security of that much cherished law of their ancestors? Jefferson, at an early period of this Government, urged the violation of a great principle of public policy on the ground of the operation of the common law in* Virginia upon a public contract; but when, in his game of ambition, he found it expedient to array that State against the Union, then he declared, that "of all the doctrines which have been broached by the Federal Government, the novel one, of the common law being in force, and cognizable as an existing law in their Courts," was to him "the most formidable."†

Thus prompted by, and in obedience to his patron, Madison, in the Assembly of Virginia, rejected the defence of the Sedition act, that it was declaratory of the common law, denouncing it as "a doctrine novel in its principles, and tremendous in its consequences, that the common law of England is in force under the Government of the United States."

But, in opposition to these opinions, the people could refer triumphantly to the unanimous resolution of the Congress of seventeen hundred and seventy-four, "that the respective Colonies are ENTITLED to the COMMON LAW OF ENGLAND, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of *that law.*" They could refer to the Constitution of their own State, which

* Infra, iv. 129.

† Jefferson to Randolph. Jefferson's Works, iii. 425.

recognized the existence of the common law, except where it was "repugnant to that Constitution." *

Was that great privilege of being tried by a Jury of their peers to be defeated by a perversion of that law? Was that part of the common law which conferred this privilege, and which had protected it for centuries, until invaded by a tyranny, now to be held "repugnant to the Constitution?" Was the protection of a Jury to be thus wrested from a citizen to shield from the truth the man who, in the "Declaration of Independence," charged it, as one of the grounds for that declaration, that "the king of England had deprived the Colonies of the benefits of trial by Jury?" If such a doctrine were sustained, "future ages would scarcely believe that the hardiness of one man adventured within the short compass of (four) years only, to lay a foundation so broad, and so undisguised for tyranny over a people, fostered and fixed in principles of freedom." † But such could not be the doctrine of America.

* See also Constitution of Maryland.

† Declaration of Independence. Jefferson's draft.

CHAPTER CLXVI.

The argument of the motion for a new trial was postponed until the February term of the Supreme Court, when Hamilton repaired gratuitously to Albany, to appear as the champion of the Press against the party which had gained power, as the zealous assertors of its liberty,—a striking, teaching contrast.

With him were associated Harrison and Van Ness,* subsequently a Judge of the Supreme Court of the State. The Attorney-General, Ambrose Spencer; and Caines, an English advocate, appeared for the people.

On Monday, the thirteenth of February, the case was opened by Van Ness, who was followed by Caines on the part of the prosecution. The next day, the Attorney-General closed the argument for the people; and having been recently appointed a judge of the Supreme Court, on the conclusion of his remarks, he took the oath of office and immediately rose to his seat upon the bench. He was replied to by Harrison. Hamilton followed and spoke until night, when, being much exhausted, the Court proposed to adjourn. He resumed his argument the next morning, and made a further address to the Court of four hours' duration.

The deep interest of the questions and the distin-

* William W. Van Ness.

guished characters of the counsel, had drawn together at Albany a vast concourse of people. Indeed, on Hamilton's approach to the seat of government persons were seen waiting on the road to catch a glimpse of him, or to tender evidences of their respect.

The Legislature was in session in the same building where the Court was sitting. But it was found impossible, while Hamilton was speaking, to preserve a quorum in either House. The Senate adjourned from necessity. The House attempted to proceed. The sergeant-at-arms repeatedly came to the door of the Court, proclaiming, "The Speaker of the House of Representatives requires every member to take his seat." Hamilton paused at each interruption. The sheriff commanded "order," and the audience remained, transfixed until he had concluded.

No accurate report of this, the greatest of his professional efforts, has been preserved. Its effect can only be inferred from the terms in which it was described at the time. "After all," a writer remarks, "came the great, the powerful Hamilton. No language can convey an adequate idea of the astonishing powers evinced by him. The audience was numerous, and though composed of those not used to the melting mood, the effect produced upon them was electric." Another wrote, "As a correct argument for a lawyer, it was very imposing, as a profound commentary upon the science and practice of government, it has never been surpassed. As a finished exhibition of virtues on the one side, and vices on the other; of the blessings of liberty and the bane of anarchy, with suitable directions how to cherish and improve the one and to avoid the other, nothing, it is believed, ever equalled it." "His speech," it is related by a different hand, "exceeded the expectation and even the hope of his friends. He rose above himself, I had almost said;

above human nature. It was a mighty effort in the cause of liberty; and although the life of this great man has been one perpetual struggle in that cause; I much question whether any act of his has been of such essential service to his country, to freedom, to republicanism, as this bold stand in favor of the press. The power of eloquence was exhibited in his speech beyond conception. To convince and persuade; to force the tear from the eye of the aged and the young: to agitate, to soothe, to calm them at pleasure is the test of true eloquence. This he did. It was a day of triumph for virtue and talents." Another wrote, "It was the most brilliant and grandest display of eloquence I ever witnessed. In the course of his argument, he traversed the whole field of politics, traced the rise and progress of the party which had then first come into power with Jefferson at its head, exposed the arts by which popular credulity had been imposed upon, and foretold the consequences to the liberties of the country, if that party should be able to muzzle the press. He declared, that he considered these libel suits, as an experiment upon the forbearance of the people, and an incipient step in a course of high-handed tyranny.

In the progress of his remarks, the Attorney-General had given great provocation to Hamilton; and it was supposed that he took his seat upon the bench to escape the keen rebuke he had reason to expect. While addressing the Judge, Hamilton gave the Attorney-General a severe castigation. One comment convulsed the Court and audience with laughter. Spencer had observed, when referring to Lord Mansfield's opinion on the law of Libel, of which the defendant's counsel had spoken disparagingly, that "the fame of Lord Mansfield would live when the name of every person engaged in this suit" (pointing significantly at Hamilton) "would be lost in

oblivion." Replying to this taunt, Hamilton remarked: "The Attorney-General was far too modest; whatever might become of the fame of other men engaged in this suit, the Attorney-General had secured a *notoriety that would never die!*" Then alluding to his recent abandonment of the Federal party, to his sudden and active zeal with its opponents, and to the proscriptions ascribed to his influence, he compared him to a meteor, observing, "'Tis true, in the rapidity of his flight, his heat has been somewhat scorching." * Nor were the attestations to this great speech only those of Hamilton's political friends. "Until I heard that speech," remarked a leading Democrat, "I did not suppose such things were within the power of the human intellect." †

"I have always considered General Hamilton's argument n this cause," Chancellor Kent relates, "as the greatest forensic effort he ever made. He had bestowed

* The relations between Hamilton and Judge Spencer were not unfriendly. This statement is before the public: "Spencer, rising up and standing before me, a most venerable and commanding man, in stature as well as in years and character, said: 'Alexander Hamilton was the greatest man this country ever produced. I knew him well. I was in situations often to observe and study him. I saw him at the bar and at home. He argued cases before me while I sat as Judge on the bench. Webster has done the same. In power of reasoning Hamilton was the equal of Webster; and more than this can be said of no man. In creative power Hamilton was infinitely Webster's superior; and in this respect he was endowed as God endows the most gifted of our race. If we call Shakspeare a genius or creator, because he evoked plays and characters from the great chaos of thought, Hamilton merits the same appellation; for *it was he, more than any other man, who thought out the Constitution of the United States* and *the details* of the *Government* of the Union; and, out of the chaos that existed after the Revolution, raised a fabric, every part of which is instinct with his thought. I can truly say, that hundreds of politicians and statesmen of the day get both the web and woof of their thoughts from Hamilton's brains. He, *more than any man, did the thinking* of the time.'" Published letter of William Dwight, Brookline, Massachusetts.

† De Witt Clinton.

unusual attention on the case, and he came prepared to discuss the points of law with a perfect mastery of the subject. He believed that the rights and liberties of the people were essentially concerned in the vindication and establishment of those rights of the Jury, and of the Press, for which he contended. That consideration was sufficient to rouse all the faculties of his mind to their utmost energy." * * * "There was an unusual solemnity and earnestness on his part in this discussion. He was at times highly impassioned and pathetic. His whole soul was enlisted in the cause; and in contending for the rights of the Jury and a free Press, he considered that he was establishing the surest refuge against oppression. The aspect of the times was portentous; and he was persuaded that, if he could overthrow the high-toned doctrine contained in the charge of the Judge, it would be a great gain to the liberties of this country. He entered by the force of sympathy into the glorious struggles of English patriots during oppressive and unconstitutional times for the rights of juries, and for a free press; and the anxiety and tenderness of his feelings, and the gravity of his theme, rendered his reflections exceedingly impressive. He never before, in my hearing, made any effort in which he commanded higher reverence for his principles, nor equal admiration of the power and pathos of his eloquence."

This brief summary of his reply, which, it is stated, occupied *six hours* in the delivery, and would have filled between *two* and *three hundred* octavo pages, is understood to be from the pen of Judge Kent.* The reporter, he says, attempted to take notes; but his attention and nerves were so excited, that he threw down his pen, and

* Johnson's Cases, iii. 352.

declared it was impossible to follow him. He states: "It is proper, however, to remark, that the brief sketch of the arguments of counsel is not given with a view to exhibit in any degree the solid and ingenious reasoning or the *powerful and matchless eloquence* displayed in this interesting and celebrated case, but merely to present to the profession, the general course of argument and the legal authorities adduced on a very important and much litigated subject of jurisprudence."

"Two great questions," Hamilton observed, "had arisen in this cause: Can the Truth be given in evidence? Are the jury to judge of the intent and of the law?

"The first might be more embarrassing; the second was clear.

"The Liberty of the Press consists in publishing with impunity TRUTH with good motives, and for justifiable ends, whether it related to men or measures. To discuss measures without reference to men was impracticable. Why examine measures but to prove them bad, and to expose their pernicious authors, so that the people might correct the evil by removing the men? There was no other way to preserve liberty and bring down a tyrannical faction. If this right be not permitted to exist in vigor and in exertion, good men would become silent. Corruption and tyranny would go on, step by step, in usurpation, until at last nothing that is worth speaking, or writing, or acting for, would be left in our Country.

"But he did not mean to be regarded as the advocate of a press wholly without control. He reprobated the novel, the visionary, the pestilential doctrine of an unchecked Press; and ill-fated would be our country, if this doctrine were to prevail. It would encourage vice, compel the virtuous to retire, destroy confidence, and confound the innocent with the guilty. Single drops of

water constantly falling may wear out adamant. The best character of our country, he to whom it was most indebted, and who is now removed beyond the reach of calumny, felt its corrosive effects." Then pointing to a portrait of Washington, he burst forth in an eulogium upon him, and adverted to the arts, the treacheries, and the slanders which had been used against him. After this eloquent allusion, which called forth the highest sympathies of his audience, he proceeded: "No, I do not contend for this terrible liberty of the Press; but I do contend for the right of publishing Truth with good motives, for justifiable ends, although the censure may light upon the Government, the magistracy, or individuals.

"The check upon the Press ought to be deposited, not in a permanent body of magistrates, as the Court, but in an occasional fluctuating body, the Jury, who are selected by lot. Judges might be tempted to enter into the views of Government, and to extend, by arbitrary constructions, the law of libel. In the theory of our Government, the Executive and Legislative departments are operated upon by one influence, and act in one course by means of popular elections. How, then, are our Judges to be independent? How can they withstand the combined force of the other departments? The Judiciary is less independent here than in England; and therefore we have the more reason and a stronger necessity to cling to the trial by Jury, as our greatest protection.

"Men in elevated stations are not to be implicitly trusted. The experience of mankind teaches us that persons have often arrived at power by means of flattery and hypocrisy, but instead of continuing to be humble lovers of the people have become their most deadly persecutors. Lord Camden had observed, that he had not been able to find a satisfactory definition of a libel. He would ven-

ture, though with much diffidence, after the embarrassment that great man had shown, to submit to the Court a definition. *A Libel is a censorious or ridiculing writing, picture, or sign, made with a mischievous or malicious intent, towards government, magistrates, or individuals.*

"According to Blackstone, it is a malicious defamation made public, with intent to provoke or expose to public hatred or ridicule. The malice or intent enter into the essence of the crime, and must be proved, and are to be left to the Jury, as parcel of the fact.

"The definition of Lord Coke is not inconsistent with this conclusion. He speaks of a libel as having a tendency to break the peace. This also, is a fact, to be proved to the Jury, for the tendency depends upon time, manner, circumstance; and must of necessity, be a question of fact.

"Texts taken from the holy Scriptures, and scattered among the people, may in certain times, and under certain circumstances, become libellous, nay treasonable. These texts are innocent, libellous, or treasonable according to the time and intent; and surely, the time, manner and intent, are matters of fact for a Jury. It is the intent that constitutes the crime. This is a fundamental principle of jurisprudence. If we run through the several classes of offences, we shall perceive that in every instance, the intent constitutes and varies the crime.

"Homicide is not of itself Murder. Killing in battle or in self-defence is lawful. Murder depends upon the malicious intent. Nothing is criminal, *per se*, which admits of a lawful excuse. Whether crime, or not, will always depend upon intent, tendency, quality, manner; and these must be matters of fact for the Jury.

"The law cannot adjudge a paper to be a libel until a

Jury have found the circumstances connected with the publication.

"But it is not only the province of the Jury in all criminal cases to judge of the intent with which the act was done, as parcel of the fact; they are also authorized to judge of the law as connected with the fact. In civil cases, the Court are the exclusive judges of the law, and this arose from the nature of pleadings in civil suits; for anciently, matters of law arising in the defence, were required to be spread upon the record by a special plea, and the Jury were liable to an *attaint* for finding a verdict contrary to law.

"But, in criminal cases, the law, and fact are necessarily blended by the general issue, and a general verdict was always final and conclusive, both upon the law and the fact. Nor were the Jury ever exposed to an attaint for a verdict in a criminal case. This is decisive to prove, that they had a concurrent jurisdiction with the Court on questions of law; for where the law allows an act to be valid and definitive, it presupposes a legal and rightful authority to do it.

"In England, trial by jury has always been cherished as the great security of the subject against the oppression of government, but it never could have been a solid refuge, and security, unless the Jury had the right to judge of the intent and the law.

"Undoubtedly, the Jury ought to pay every respectful regard to the opinion of the Court; but suppose a trial in a capital case, and the Jury satisfied from the arguments of Counsel, the authorities, and their own judgment upon the application of the law to the facts, (for the criminal law consists in general or plain principles,) that the Law arising in the case is different from that which the Court advances, are they not bound by their oaths, by their duty

to their Creator, and to themselves, to pronounce according to their own convictions?

"To oblige them, in such a case to follow implicitly the direction of the Court, is to make them commit perjury and homicide, under the forms of law. Their error is fatal and cannot be corrected. The victim is sacrificed —he is executed—he perishes without redress.

"Were I a juror in such a case, I would endure the rack rather than surrender my own convictions on the altar of power, rather than obey the judicial mandate.

"Lord Mansfield by his inconsistencies and embarrassment on this subject showed that he was supporting a violent paradox. He did not speak of the errors of this great man but with the highest veneration for his memory. He would tread lightly over his ashes and drop a tear of reverence as he passed by.

"The case of the Seven Bishops and Fullers and Turpins cases are a series of precedents in favor of the right of the Jury. The opposite precedents begin with Lord Raymond, but they have not been uniform, nor undisputed.

"It has constantly been a floating and litigated question in Westminster Hall. A series of precedents can only form law. There can be no embarrassment to the Court. They are at liberty to examine the question upon principle. The English Declaratory Act recites, that doubts had existed, and being declaratory, it is evidence of the sense of the nation. The Marquis of Lansdowne observed, in the house of Lords, that the same declaratory bill had been brought in twenty years before, and was then deemed unnecessary.

"The question, how far the truth is to be given in evidence, depends much upon the question of intent; for if the intent be a subject of enquiry for the Jury, the giv-

ing the truth in evidence is requisite, as the means to determine the intent.

"TRUTH is a material ingredient in the evidence of intent. In the whole system of law there is no other case in which the truth cannot be shewn; and this is sufficient to prove the proposition which denies it in the present case, to be a paradox.

"The Roman law permitted the truth to be adduced to justify an alleged libel. The ancient English Statutes prove also, that in the root and origin of our Law, falsity was an ingredient in the crime, and those statutes were declaratory of the common law. The ancient records and precedents prove the same thing, and they are the most authoritative evidence of the ancient law. In the celebrated case of the Seven Bishops, the Court permitted the defendants to prove the truth of the facts stated in the petition. That case is very important in various views. It establishes the necessity of enquiring into the circumstances and intent of the act. It was an instance of a firm and successful effort to recall the principles of the common law, and was an important link in the chain of events that led on to the glorious era of their Revolution.

"In Fuller's case Lord Holt permitted the defendants to give proof of the truth of the charge. But, while he declared himself in favor of the admissibility of the truth in evidence, he subscribed to the doctrine in 'Wants case in Moore' that the truth ought only to be given in evidence, to determine *quo animo* the act was done.

"It ought not to be a justification in every case, for it may be published maliciously. It may be abused to the gratification of the worst of passions, as in the promulgation of a man's personal defects or deformity.

"The Court of Star Chamber was the polluted source

whence the Prosecutor's doctrine was derived. That is not the Court from which we are to expect principles and precedents friendly to freedom. It was a most arbitrary, tyrannical, and hated tribunal, under the control of a permanent body of magistrates, without the wholesome restraints of a jury.

"The Whigs of England, after the Revolution, in order to prop their power, adopted, as in Franklin's case, the arbitrary maxims of that Court which had been reprobated at the Revolution; and this ought to serve as a monitory lesson to rulers at the present day, for such is the nature, progress, and effect of the human passions.

"The right of giving the truth in evidence in cases of Libel is all important to the LIBERTIES of the people. Truth is an ingredient in the eternal order of things, in judging of the quality of acts. He hoped to see the axiom, that truth was admissible, *recognized by our Legislative and Judicial bodies.* He always had a profound reverence for this doctrine; and he felt a proud elevation of sentiment in reflecting, that the act of Congress,* which had been the object of so much unmerited abuse, and had been grossly misrepresented by designing men, established this great vital principle. It was an honorable, a worthy, a glorious effort in favor of Public Liberty. He reflected, also, with much pleasure on the fact, that so illustrious a patriot as Mr. Jay, had laid down correctly and broadly the power of the Jury. These acts were monuments, were consoling vestiges of the wisdom and virtue of the Administration, and of the character that produced them.

"He maintained that the Common Law applied to the United States. The Common Law was principally the application of natural law to the state and condition of

* Called "The Sedition law."

society. The Constitution of the United States used terms and conveyed ideas which had reference only to the Common Law, and were inexplicable, without its aid. The definition of treason, of the writ of Habeas Corpus, of crimes and misdemeanors, were all to be expounded by the rules of the Common Law. The Constitution would be frittered away or borne down by factions, the evil genii, the pests of Republics, if the Common Law was not applicable to it. Without this guide, any political tenet or indiscretion might be made a crime, or pretext to impeach, convict, and remove from office, the Judges of the Federal Courts. If we depart from Common Law principles, we shall degenerate into anarchy, and become the sport of the fury of conflicting passions. The transition from anarchy was to despotism—to an armed master.

"The real danger to our liberties was not from a few provisional troops. The road to tyranny will be opened by making dependent judges; by packing juries; by stifling the press; by silencing leaders and patriots.

"My apprehensions are not from single acts of violence. Murder rouses to vengeance. It awakens sympathy and spreads alarm. But the most dangerous, the most sure, the most fatal of tyrannies was, by selecting and sacrificing single individuals, under the mask and forms of law, by dependent and partial tribunals. Against such measures we ought to keep a vigilant eye, and take a manly stand. Wherever they arise, we ought to resist,—and resist,—and resist,—until we have hurled the demagogues and tyrants from their imagined thrones.

"He concurred most readily with the learned counsel opposed to him in the opinion, that the English were a free, a gloriously free people. That country is free, where the people have a representation in the Government so that no law can pass without their consent, and where

they are secured in the administration of justice by the trial by jury. We have gone further in this Country into the popular principle, and he cordially united his prayers with the opposite counsel, that the experiment with us might be successful.

"The question on the present libel ought to be again tried. It concerns the reputation of Mr. Jefferson. It deeply concerned the honor of our Country. It concerned the fame of that bright and excellent character General Washington, in which he had left a national legacy of inestimable value."*

Amid the scenes of popular discord through which this country is doomed to pass, this great effort will be looked back to by patriots, rising in succession to defend the liberties of the people, as forming a most important era in its history. For Hamilton's eloquence was not exerted in vain. "The fruit of his efforts still exists, and will remain a monument of his glory." Though the Court were equally divided in opinion,† and therefore decided nothing, yet a bill concerning Libels was brought before the Legislature. It "declared that in every indictment or information, the Jury shall have a right to determine the law and the fact under the direction of the Court, as in other criminal cases." On the consideration of this bill, the Assembly, being Democratic, to shield Lewis, the candidate recently nominated as Governor, expunged the clause by the casting vote of their Speaker, which declared this to be the law. The section authorizing the

* Note at end of Chapter.

† Kent and Smith Thompson for the defendant. Lewis and Livingston for the prosecution.

At a subsequent term the Attorney General moved a *nolle prosequi*; and the Court assented to it. A similar course was subsequently taken by the friends of Jefferson in similar proceedings, instituted in Connecticut.

truth to be given in evidence, it was proposed so to limit, as to confine the justification to matter "respecting the *official* misconduct or qualifications of officers, or of candidates for office." The name of the author was also required to be *signed* to the publication. The bill thus modified was rejected by the Council of Revision; was again introduced and again lost at the next Session of the Legislature; and a new bill was passed, incorporating the principles for which Hamilton had contended. The Jury were declared to have a right, as in other criminal cases, to determine the law and the fact; and the truth of the matter charged was to be admitted in evidence, with a provision that such evidence should not be a justification, unless on the trial it shall be made satisfactorily to appear, "that it was published with good motives and for justifiable ends."

The great palladium of Liberty—the Press—was thus secured, while a due regard was paid to the peace of society. These invaluable principles have become a part of the law of this Country, have been incorporated in the Constitutions of twelve of the United States; and, after frequent legislation, are embodied in a modern statute* of the British Parliament, adopting the language of Hamilton. He remained at Albany until the middle of March, much occupied in professional business, and in adjusting the terms of compromise of a large estate in which his wife's family were interested, and which, owing to the feeble execution of the laws was almost sacrificed.

During his sojourn at this place, a friend placed before him in a definite form the particulars of a calumny long

* Introduced in 1833. The law of Parliament provides that it shall be made to appear satisfactorily to the Jury, that the matter charged as libellous was published "with *good motives* and for *justifiable ends*, and on sufficient occasion."

in circulation, said to be contained in a letter from Connecticut. It was in effect, that during the sitting of the General Convention in eighty-seven, a project existed for the establishment in the United States of a monarchical government, at the head of which was to be placed the Bishop of Osnaburgh; and that this project was approved by Hamilton and other leading Federalists.

He now wrote to George Clinton, Governor of New York, stating that this "very odious slander had been a long time since in circulation to the prejudice of his character, but till lately without the disclosure of any source to which he could resort for explanation or detection;" that Clinton's name was implicated in the transaction, the mention of which added "importance to the affair, and increased the motives to investigation;" and that "even in the mitigated form to which it was now reduced," it was "of a nature too derogatory to permit him to pass it over lightly." "It is essential," he observed, "that its origin and progress should be traced as fully as may be practicable in order to the thorough exposure of its falsehood and malignity." He appealed to him for "a frank and candid explanation of so much of the matter as related to himself."

Governor Clinton replied, that he recollected to have mentioned that he had seen a copy of a letter similar to that referred to about the time of the sitting of the Convention, which "was put into his hands by the late General Malcolm, who informed him he had received it from Connecticut. It was without signature or direction." But he did not pretend in any degree to connect Hamilton with the plan. Hamilton answered, "It is perhaps the natural inference from what you have stated, that nothing took place on your part to sanction or corroborate the story, in reference to any agency or coöperation

of mine in the supposed project—yet some of the circumstances are such that a different inference might possibly be drawn. I therefore," he remarked, "trust that you will be sensible of the propriety of dissipating all obscurity on this point." This observation is followed by a request of permission "to inspect the original or the copy of the letter in order that he might have an additional clue to the source of a story which he verily believed originated entirely in a fabrication." After several days had elapsed, this request was repeated. Clinton then replied, stating his belief, that he had returned the letter to the person from whom he received it, that he could not find it among his papers, but that, if it should be found, the copy or original would be submitted to him. He then gave his recollection of its contents, and concluded with the observation, that "the charge of having countenanced an attempt to establish a monarchical government, however modified, in the United States, he considered odious and disreputable; and that he was pleased to find, that however much they may differ on other political subjects, they agreed in sentiment as to this."

Hamilton finally rejoined: "It is agreeable to me to find in your letter a confirmation of the inference that you had given no countenance to the supposition of my agency or coöperation in the project to which the story relates; and it only remains for me to regret, that it is not in your power to furnish the additional clue, of which I was desirous, to aid me in tracing the fabrication to its source. I shall not only rely on the assurance which you give, as to the future communication of the copy of the letter in question, should it hereafter come to your hands; but I will take the liberty to add a request, that you will be pleased to make known any other circumstance, if any should reach you, which may serve to throw light upon

the affair. I feel an anxiety that it should be thoroughly sifted, not merely on my own account, but from a conviction, that the pretended existence of such a project, long travelling about in whispers, has had no inconsiderable influence in exciting false alarms and unjust suspicions, to the prejudice of a number of individuals, every way worthy of the public confidence, men who have always faithfully supported the existing institutions of the country, and who would disdain to be concerned in any intrigues with any foreign power or its agents, either for introducing monarchy, or for promoting or upholding any other scheme of government within the United States."* It became no man more to be the vindicator of the honor of the great party of which he was the leader.

Never was the violence of party seen in greater deformity than was exhibited in New York at this time. The Democratic divided into two factions—one intolerant from success—the other goaded to fury by disappointment—both courting, both fearing, Hamilton. The Federalists rent and distracted—a part enthusiastically devoted to their founder—the rest seeking advancement by

* The story refers to the letter mentioned Infra. iii. 330. In Jefferson's Anas. Works, iv. 487, the following memorandum is found. "Eodem die (June 7, 1793), Beckley tells me he has the following fact from Governor Clinton—that before the proposition for the present general government, i. e. a little before Hamilton conceived a plan for establishing a monarchical government in the U. S., he wrote a draught of a circular letter which was to be sent to about —— persons to bring it about. One of these letters, in Hamilton's hand-writing, is now in possession of an old Militia General up the North River, who at that time was thought *orthodox* enough to be entrusted in the execution. This General has given notice to Governor Clinton, that he has this paper, and that he will deliver it into his hands and no one's else. Clinton intends, the first interval of leisure, to go for it, and he will bring it to Philadelphia. Beckley is a man of perfect truth as to what he affirms of his own knowledge, but too credulous as to what he hears from others." For what purpose was the tale, if disbelieved, thus recorded?

a vile traffic with the most abandoned of their opponents. Was Hamilton silent, his silence was suspected because of his habitual frankness. Did he speak, a double hypocrisy watched his words, while relenting at the fascination of his smile. Each day, he the more deplored the direct and demoralizing influence of vicious government, scoffing at principle, discouraging worth, fostering vice by showing it triumphant—seeking its instruments in the unworthy, and thus making bad men worse.

Yet were not Hamilton's heart hardened nor his resentments indulged. The firm and generous temper, with which he was blessed, had long since taught him the personal sacrifices of interest and of feeling which a public man owes to the public good. They had been the habit of his life. Intolerance was the practice and the example of the Administration, an intolerance not confined to a mere proscription from office but of that freedom of opinion which the Democracy most boasted, least permitted. The instances which follow, in fine contrast with such intolerance, show the elevation and beauty of Hamilton's character; and are in unison with every part of his history.

A person then holding place, who had written against him with extreme virulence, became involved in a serious difficulty. He applied to Hamilton to defend him. The cause was gained. When the fee was tendered, Hamilton declined it, observing, "I can accept nothing from you." Embarrassed, and overwhelmed, the acquitted party exclaimed, "Is it possible, General, you can treat a man who has so often abused you, with such kindness?" "I would," Hamilton answered, "I would conquer you with kindness."

A suit had arisen between members of the family of his early friend Cruger. Hamilton was consulted by his

children, and he assumed the delicate office of a mediator. The case involved an immense property and a fee of a thousand dollars was pressed upon him. "When I was young," Hamilton remarked, "your father was kind to me. I have never had an opportunity before of showing I remembered it. I beg you will not withhold it from me." The controversy was adjusted, for as Troup relates—"Hamilton was literally a peace-maker."

Some personal incidents are related by an Irish gentleman, who the less he had the temper to buffet with the world, the more he engaged Hamilton's sympathies. He had been a barrister in Baltimore, was introduced by General Schuyler, and arrived in New York at the height of a raging pestilence. On presenting himself, Hamilton observed, "Have you no apprehensions from this fever?" "None," Blake replied. "I am happy," Hamilton answered, "to see you armed with so much fortitude." Learning his wishes, he remarked, "I will go in to Pendleton and speak to him." A place was kindly assured. On his return, addressing the Stranger with tenderness and respect, he said, "I have seen Pendleton and formed the ground work of your preferment in life. Come home with me." After listening to his little history, he laid his hand upon his shoulder, and pressing it, remarked, "My friend, I pray God, you may ever preserve your virtue." Some time after he invited him to reside in his family. One day at the table he turned to him, "How are your spirits?" On hearing his reply—he remarked, "I have also experienced vicissitudes in life. I have labored with my head more than any man I know of. I have had my elevations and depressions of spirits. But I have never been happy, but when I was in the pursuit of Religion and of Virtue." "I find myself," he added, "without prejudices as to sects or nations. I see around

me men of every persuasion and of all nations. I am myself of every nation—I am Scotch, I am French, and what you do not know, I have a little Irish blood in my veins." Thus kindly did he unbend, disclosing the liberality of his heart and head. He gave to every man something. He measured the relative force of minds and feelings, and looking on the world with sympathy for its infirmities, he nurtured the consciousness of his common nature, and made that pity the fountain of an ever flowing benevolence. His temper was as sportive as it was kind. An eminent Presbyterian clergyman from New England was introduced to him, when on a visit to New York. On his return, his friend said, "Well, you have seen Hamilton—you have seen the great man." "I cannot tell you about his greatness," the Divine answered, "but he was as playful as a kitten."

He felt that his moral influence was the property of the public. A farmer advanced in life, whose appearance indicated respectability, called upon him to commence a suit to recover his farm, for which a deed had been obtained from him in exchange for land in Virginia. The narrative so much interested Hamilton, that when he began to lament he could not offer a fee—he encouraged him, saying, "Proceed, proceed." At the close of the story, convinced of the fraud, he wrote to the wealthy perpetrator of it to call upon him. An interview took place. Hamilton pointed out to him the necessity of reconveying the farm, and paying the expense of the farmer's journey to the City. The Speculator hesitated, saying, "It must first be ascertained the title to the land is defective." Hamilton arose, and exclaimed, "Sir. You must give me back that deed. I do not say that you knew that the title to these lands is bad, but it is bad.—You are a rich,—he is a poor, man. How can you sleep

on your pillow? Would you break up the only support of an aged man and seven children?" Full of emotion, he paced the floor rapidly, and turning suddenly, exclaimed, "I will add to my professional services all the weight of my character and powers of my nature; and *you* ought to know, when I espouse the cause of innocence and of the oppressed, that character, and those powers will have their weight." The person thus addressed again asked time. An hour was fixed. He reappeared before Hamilton, telling him his advice should govern. The re-conveyance was immediately drawn, and executed. The countryman, thus suddenly rescued from ruin, poured forth his gratitude, and asked him to name his compensation. "Nothing," Hamilton answered, "Nothing. Hasten home and make your family happy."

"It was not uncommon for him," Colonel Troup relates, "to advocate the causes of persons too poor to remunerate his services when such persons had manifest justice on their side. The fees he demanded were always moderate. I have frequently seen him abandon causes, after he had clearly ascertained they could not be supported by law or evidence. In social intercourse with his professional brethren, he was unassuming, affable, and courteous, never showing the least symptom of pride or haughtiness, which sometimes attend a consciousness of vast superiority of mental endowments; and in his practice he was candid and liberal towards his brethren, utterly abhorring trick and chicanery. * * * Such was his professional character. I am free to declare, you will not err by adding to it whatever is admirable in the most exalted talents, and whatever is excellent in the most perfect virtue."*

* Letter of Colonel Troup.

"There was a fascination in his manner by which one was led captive unawares.* I have heard him on very many public occasions when his talents were brought forth on political subjects, but oftener at the Bar, where he stood preëminently high. On most occasions, when animated with the subject on which he was engaged, you could see the very workings of his soul in the expression of his countenance; and so frank was his manner, that he would make you feel that there was not a thought of his heart that he would wish to hide from your view. It has seldom, and perhaps never fallen to the lot of any one to possess so many brilliant qualities, as the Almighty, for wise purposes, showered upon him, and the difficulty was to say, when he shone most conspicuously. If there was any thing in that bright constellation more dazzling than the rest, it seemed to me, that it was his unyielding integrity, and in that respect he was as rigidly guarded in his professional character, as in private life." An instance of this is given.

A young Frenchman of wealthy connections was arrested on a charge of crime. Hamilton was asked to defend him. Before hearing the facts, he stated a principle which had governed him as to the defence of persons so situated, that he could not insist upon the innocence of any individual, of whose guilt, after a full and fair disclosure of the case, he was convinced. But as long as there was any reasonable doubt of the facts, or any construction could be given of the transaction, that would raise a just doubt of guilt, so long he would act as the advocate; that therefore he might not be the fit person to be employed. Being informed that the object was not to disprove the charge, but to obtain a pardon, Hamilton

* Letter of Alexander L. McDonald to the author.

consented to give his aid. He stated to the Jury, that in pleading not guilty, they meant not to deny the fact, but to place the case before the Court in such a light as would justify the recommendation of a pardon. He then entered into the peculiar circumstances of the case; showed the offence was the result of passion prompted by the artifices of the other sex; described woman in her true and higher sphere, and then depicted her influence when fallen and depraved. "In filling up this picture, he gave it such a colouring as caused floods of tears to pour from the eyes of the Judges, the Jury, and the whole audience." The Jury recommended a pardon; and Kent, presiding, took up his pen, and rapidly wrote such a certificate as in a few days obtained from the Governor the desired pardon. On retiring from the Court, Hamilton, swayed by his own feelings, observed, he was fearful the prisoner had not been well advised; for he had almost convinced himself that the offense had not been committed within the intent of the law, and felt, had he urged his innocence, that an acquittal would have followed. In the trial of causes, it was his habit to address the Jury in the beginning with as clear and full a statement of the case as he could find, so as to impress them with every fact in its relative importance; next, to address the Court concisely, and to close with remarks intended both for the Jury and the audience. Nor did he refuse, in extraordinary cases, to resort to a form of more earnest appeal.

An occurrence had taken place which greatly excited the sympathies of the inhabitants of the city of New York. The body of a female was found in a public well, and a young mechanic of reputable character, who had been her suitor, was suspected of and indicted for the murder. Hamilton was engaged to defend him. A careful investigation left no doubt in his mind of the innocence

of the accused, and his suspicions fell upon a principal witness for the prosecution. But the public feeling had been artfully directed against his client, and to overcome its passionate prejudices was an herculean task. The office of defending him was rendered invidious; and fearing that his talents would rescue the destined victim from their grasp, Hamilton, when he appeared in the Court of Justice, was regarded by the multitude, in this, the only time of his life, with a dark and sullen animosity. He resolved not merely to secure the acquittal of his client, but to place his character beyond all just suspicion.

It would, in this view, be a great victory so to operate on the Jury in the progress of the evidence as to supersede the necessity of summing up the cause. To this object he bent all his efforts. The evidence was circumstantial, with the exception of that of the witness, who Hamilton felt convinced was the criminal. After an exertion of all his logical powers in disentangling the web which had been wound around the accused, and in showing that the crime must have been perpetrated by another hand, the suspected witness was called to the stand. On his evidence the verdict would turn. The prolonged trial had extended far into the night; and when Croucher was sworn, Hamilton advanced, placed a candle on each side of his face, and fixed on him a piercing eye. This was objected to; but the Court declared the extraordinary case warranted this procedure. Hamilton then remarked, in the deepest tones of his voice, "I have special reasons, deep reasons, reasons that I dare not express—reasons that, when the real culprit is detected and placed before the Court, will then be understood." The audience bent forward in breathless anxiety, every eye turning from the prisoner to the witness; when Hamilton exclaimed: "The Jury will mark every muscle of his face, every motion

of his eye. I conjure you to look through that man's countenance to his conscience." Having thus fixed the impression, he pressed in a close examination the conscience-stricken culprit, who plunged on from one admission to another, from contradiction to contradiction. The evidence closed. As Croucher withdrew from the stand, the spectators turned away from him with horror; and the Jury acquitted the young mechanic without rising from their seats. Doubts still hung over the accused; but the subsequent conviction of this witness of an execrable crime,* left little question of the justice of Hamilton's suspicions.

Another instance occurred in this period of his professional life, indicative of his proverbial liberality. A very large amount of property belonging to persons in New England was in controversy. From the intricate nature of the questions which must arise, it was obvious that the litigation would be conducted with pertinacity. Hamilton was consulted as to the probable result, and as to the compensation he would require. He stated, that the claim would be vehemently opposed, and would be carried through every Court; and under these circumstances he should not consider a thousand dollars too large a fee. The demand was readily acceded to. After a protracted contest, Hamilton won the cause. His successful clients directed their correspondent to present him with an additional thousand. But Hamilton replied, "I must decline it. When I undertook this cause I mentioned one thousand dollars. It has given me more trouble than I expected. It might have given me less. I

* Croucher was convicted of a rape on a young child, was pardoned, proceeded to Virginia, there committed a fraud, fled to England, where it is related he was executed for a heinous offence. Trial of Croucher, Pamphlet No. 2644, New York Historical Society.

cannot think of accepting this additional sum under the flush of grateful feeling on gaining a doubtful cause."

Early in the autumn of this year he was engaged in a suit wherein his wife's connections had a large stake. An extensive tract of land not far from the Hudson was in possession of persons who had been artfully instigated to dispute their title. When the trial was approaching, and it was known that he would take a part, the population of the adjacent country thronged to the seat of justice. Of the legal right of his clients he entertained not a doubt. Each question of law which was raised in succession was settled in his favor by the Judge, so as to indicate to the Jury what the verdict ought to be; but in a case involving the interests of so many friends and neighbors, would the Jury be impartial?

Hamilton arose, and, leaving out of view the points as to which he believed he had made a sufficient impression during the progress of the trial, addressed an eloquent appeal to the Jury on the sanctity of their oaths, and on "the immutability of justice." He obtained a verdict. The strength of the prejudices he overcame may be estimated by the fact, that it became necessary to require the aid of the militia to dispossess the numerous occupants; and that at last the claim, notwithstanding the adjudication as to the right, was settled by a compelled compromise for a trifling sum.

His fame as an advocate, which had early extended far,* was now such that the Courts were thronged by his auditors, juries were influenced in advance by his presence, and the judges sat in profound amazement, and a sort of wonder seemed to attend the exertions of "his mighty mind."† It was even supposed could his services be secured, the result was beyond question.

* Jefferson's Works. † Kent's "Recollections."

The son of an aged man in humble life, residing in the interior, was indicted of a heinous crime. His character was exemplary, and he had applied the proceeds of his industry to the support of his father, who had a numerous family. But he was a Democrat, and in the heat of political strife, had incurred the hostility of his Federal neighbors. These persons took hold of suspicious circumstances, and formed of them a tale which menaced his ruin. The old man was told, that the only chance for his son was to employ General Hamilton. He came to New York, called upon him, and he undertook the cause. Hesitating with apprehension, because he was poor, the aged countryman asked him to name his fee. Hamilton evaded the question, telling him he must then go to Court, and that the fee must be left to some other time. When the cause came to trial, satisfied of the innocence of his client, after analyzing the evidence, Hamilton broke forth with a stern rebuke at the intrusion of politics into the temple of Justice—pointed out the danger of trusting memory under the influence of political resentments, and showed how easily a web of falsehood might be woven. He deplored the growth of party spirit, described it as a fiend which disturbed the peace of families, the quiet of villages, the tranquillity of the whole country—declared that the breast in which it was suffered to take root became a prey to the vilest passions, and that "before he would permit it to sway his feelings, he would pluck his heart from his bosom." On this Jury, he said, were waiting, of the friends of the accused—not one—not two—not three—but a whole neighborhood, who had voluntarily come over hill and dale—from afar—from a great distance,—to throw in the mite of their testimony, and raise a monument of public opinion in his favor. These friends were now hanging on the verdict of that Jury to know,

whether justice rose above the passions of the moment.—He alluded to *his* being a Federalist;—that he was publicly known as such;—that his were principles that could never change. During this appeal his voice at times rose to a pitch of terrific denunciation which appalled each hearer, and at times sunk so low that every ear was strained to catch its deep, soft, under tones.

The prisoner was acquitted. Hamilton, throwing his cloak over his shoulders, walked to the porch of the City Hall, where, observing that it rained, he paced to and fro, as was his wont, waiting an abatement of the storm. At this moment, the father came up with the intention of offering his thanks, but he could not speak. He then grasped his deliverer's hand, and wrenching it with force, burst into a flood of tears. Hamilton's eye moistened, but recollecting himself, he addressed him, "Old man, my friend. It was not my talent that acquitted your son.—It was not I.—It was his innocence." The aged father then pressed upon him a fee. Hamilton left him, and was overheard, conferring with his own full heart, to whisper, "I would not in such a cause tarnish my hands with gold."

The great master of oratory, declared, that "he truly is the greatest orator, whom the people regard as the greatest."* So it was as to Hamilton. Words seemed to fail in describing the impressions he produced. A man of eminent genius, and learning, and power of thought and of expression, his intimate friend, wrote of his eloquence, "When a cause of new magnitude required new exertion, he rose, he towered, he soared; surpassing himself, as he surpassed others. Then was nature tributary to his eloquence! Then was felt his despotism over the

* Cicero's Brutus. "Id ipsum est summi oratoris, summum oratorem populo videri."

heart! Touching at pleasure every string of pity or terror, of indignation or grief, he melted, he soothed, he roused, he agitated, alternately gentle as the dew and awful as the thunder. Yet, great as he was in the eyes of the world, he was greater in the eyes of those with whom he was most conversant. The greatness of most men, like objects seen through a mist, diminishes with the distance; but Hamilton, like a tower seen afar off under a clear sky, rose in grandeur and sublimity, with every step of approach. Familiarity with him was the parent of veneration. Over these matchless talents, probity threw her brightest lustre. Frankness, suavity, tenderness, benevolence, breathed through their exercise."*

NOTE.

I. The liberty of the Press consists in the right to publish with impunity truth with good motives for justifiable ends, though reflecting on Government, magistracy, or individuals.

II. That the allowance of this right is essential to the preservation of free government—the disallowance of it fatal.

III. That its abuse is to be guarded against by subjecting the exercise of it to the animadversion and control of the tribunals of justice; but that this control cannot safely be entrusted to a permanent body of magistracy, and requires the effectual coöperation of court and jury.

IV. That to confine the jury to the mere question of publication, and the application of terms without the right of inquiry into the intent or tendency, referring to the court the exclusive right of pronouncing upon the construction, tendency, and intent of the alleged libel, is calculated to render nugatory the function of the jury; enabling the court to make a libel of any writing whatsoever, the most innocent or commendable.

V. That it is the general rule of criminal law that the intent constitutes the crime, and that it is equally a general rule, that the intent, mind, or *quo animo*, is an inference of fact to be drawn by the jury.

VI. That if there are exceptions to this rule, they are confined to cases in

* Oration on Hamilton by the Reverend John M. Mason.

which not only the principal fact but its circumstances can be and are specifically defined by statute or judicial precedent.

VII. That in respect to libel there is no such specific and precise definition of facts and circumstances to be found, that consequently it is difficult, if not impossible to pronounce that any writing is *per se*, and exclusive of all circumstances, libellous. That its libellous character must depend on intent and tendency, the one and the other being matter of fact.

VIII. That the definitions or descriptions of libels to be found in the books predicate them upon some malicious or mischievous intent or tendency, to expose individuals to hatred or contempt, or to occasion a disturbance or breach of the peace.

IX. That in determining the character of a libel, the truth or falsehood is, in the nature of things, a material ingredient, though the truth may not always be decisive; but being abused, may still admit of a malicious and mischievous intent which may constitute a libel.

X. That in the Roman law, one source of the doctrine of libel, the truth in cases interesting to the public may be given in evidence.—That the ancient statutes, probably declaratory of the common law, make the falsehood an ingredient of the crime; that ancient precedents in the courts of justice correspond, and that these precedents to this day charge a malicious intent.

XI. That the doctrine of excluding the truth as immaterial originated in a tyrannical and polluted source, the Court of Star Chamber—and that though it prevailed a considerable length of time, yet there are leading precedents down to the Revolution, and even since, in which a contrary practice prevailed.

XII. That this doctrine being against reason and natural justice, and contrary to the original principles of the common law enforced by statutory provisions, precedents which support it deserve to be considered in no better light than as malus usus, which ought to be abolished.

XIII. That in the general distribution of powers in our system of jurisprudence, the cognizance of law belongs to the court, of fact to the jury; that as often as they are not blended, the power of the court is absolute and exclusive. That in civil cases it is always so, and may rightfully be so exerted. That in criminal cases, the law and fact being always blended, the jury, for reasons of a political and peculiar nature, for the security of life and liberty, is entrusted with the power of deciding both law and fact.

XIV. That this distinction results: 1. From the ancient forms of pleading in civil cases, none but special pleas being allowed in matter of law, in criminal none but the general issue. 2. From the liability of the jury to attaint in civil cases, and the general power of the court, as its substitute, in granting new trials, and from the exemption of the jury from attaint in criminal cases,

and the defect of power to control their verdicts by new trials, the test of every legal power being its capacity to produce a definitive effect, liable neither to punishment nor control.

XV. That in criminal cases, nevertheless, the court are the constitutional advisers of the jury in matter of law: who may compromit their consciences by lightly or rashly disregarding that advice, but may still more compromit their consciences by following it; if, exercising their judgments with discretion and honesty, they have a clear conviction that the charge of the court is wrong.

CHAPTER CLXVII.

While Hamilton was thus laboring in the great cause of liberty, Jefferson was employed in the pursuits most congenial with his nature. He is seen to have risen to power by the practice of all the most unscrupulous arts of a selfish demagogue. It was not to be expected that he would abstain from the use of these arts in rendering that power dominant over all opposition. Nor was this, in the condition of the United States, of difficult accomplishment. The Federalists, as a national party, had, as seen, prostrated themselves, in disregard of Hamilton's monitions, by their support of Burr; and Jefferson resolved that Burr should be prostrated because of the support of the Federalists. While Hamilton lived, he knew that support could not be successful. His policy was to undermine them where they still had influence, preventing their being rallied under their distinguished leader, which could only happen in a moment of some great national vicissitude; and to reduce them to local fragments, to become, thus disintegrated, tools of factious designs. If adversity tries man as an individual, it tries him more, in his relations to others, which demand faith, for as fidelity in common mutual success, has the support of promise, fidelity under common mutual misfortune involves sacrifice; and sacrifice is the part of the highest, most devoted virtue.

Such sacrifices are rare; and nothing is more frequent, or more grievous, than to see the remnants of a great party, grasping, in almost despair, the floating remains of a great wreck.

With a central administration, so recent in the United States, limited to large but specific objects, but without that catenation of functionaries instrumental in the distribution, exercise, and reproduction of power; with local administrations in the several States, dispensing private justice and affecting private rights of nearest social interest, through numerous agents, discontent, ripening into disaffection, would naturally seek in those local administrations, its supports and its implements. The feebleness of the Confederation had given the minds of the people this partial direction; and the Federal Constitution had, in its very formation, recognized, countenanced, and almost cherished such a disposition.

The consolidation of Jefferson's power in the Southern States only required abstinence in its exertion; and, though probably the number was somewhat greater, it is asserted, that in these States, there were but two early removals from office. In New England his interposing hand was more often felt, but it was in Pennsylvania and in New York that the blows were frequent. The former, by its opposition to Washington, had entitled itself to the patronage of his enemy; and in the latter, every friend of Hamilton was to be stricken down, every prop upon which the Southern party leaned, was to be strengthened, every doubted member to be proscribed. Above all, and first of all, Burr, his accidental rival, must be immolated. Nor could Jefferson doubt that such a sacrifice would be easy, for he who had so successfully wounded the teguments of Washington, could deem as nothing the task of bringing down to earth, the man whom Washing-

ton would have trodden under his feet. It was, however, his refined policy, first to caress and feed with hopes the victim to be slain. While the President's power in office was being confirmed, not a whisper was uttered, not a voice was heard in disparagement of the Vice-President. So to have done would have betrayed the wounds of a doubtful triumph, and have encouraged opposition. But as the tides in his favor rose, and the breezes from every quarter came fluttering upon his cheeks, Jefferson was seen to knit his brows and grind his teeth. And then, a silent edict went forth from the Capitol, Madison alone of the Cabinet, deadly jealous of the apparent possible heir, consulted and abetting. Burr's very aspirations were deemed a treason, though inspired by the Constitution; and while Hamilton is seen engaged in removing a blemish from the Constitution, Jefferson was busy driving its casual upstart from the State. It was the President's opinion, an opinion the stronger because of Burr's efficiency in the recent election, that Burr was not true, and at once Burr was pronounced false. It was their President's wish, that Burr be outlawed, and that wish was the law of his Democracy. New York had been the scene of Burr's immediate success; New York must be the scene of his immediate defeat; and every thing in New York conspired to this result. The coöperation of the three Democratic factions in that State was but a temporary cohesion. The repellent parts had broken asunder, and the disruption was the more violent because of the forced connection. Burr's destruction was the more a fixed purpose there, from the obvious motive, that it diminished the number of the recipients of public favor. That favor was to be conferred so as to keep in pliant accord the Clintons and the Livingstons, to act against their common foe. George Clinton, again Governor of the State, had

been permitted to covet the succession to the Vice-Presidency, while his able nephew and most faithful friend, was preferred to the Senate of the United States. Chancellor Livingston was in Paris, engaged on his important errand. His brother, Edward Livingston, won away from Burr, as was stated, was appointed by the Governor, Mayor of the City of New York. Brockholst Livingston, and a connection of the Livingstons were both seated on the bench of the Supreme Court of the United States, while minor members of the family were rewarded with minor lucrative offices. On but one devoted adherent of Burr was the Presidential patronage suffered to cast a lingering ray. Even from the direction of the bank Burr had established by a trick, and which had done so much in raising him and his party to power, the Vice President and Swartwout were both ejected. This tyranny of party felt the necessity of a vindicator and instrument of its proscriptions. Retaliation was the natural consequence; and two gazettes were seen entering the gladiatorial arena—one devoted to Clinton,* the other to Burr,† pouring forth bitterest accusations and exprobations of their antagonists. Burr was openly charged with intrigues with the Federalists to obtain the Presidency, and with persisting in continued intrigues bearing on the coming election. Was not Jefferson the long preferred, long intended choice of the Democrats? Except by a few interested confederates, who ever dreamed of Burr's elevation to that high trust? Had his ambition been chaste, and his fidelity to his party clear, would the choice of a President by the House of Representatives have been

* "The American Citizen," edited by James Cheetham—a native of England.

† "The Morning Chronicle," edited by Peter Irving, a brother of Washington Irving, who was a contributor to its sheets.

so long delayed? Would the Federalists have been so pertinacious, had not Burr given them grounds of hope? That certain Federal members of Congress had made advances to him was not to be denied; how had these advances been met? He had indeed disclaimed any purposed competition with Jefferson, but did not this disclaimer proceed from a secret confidence of support at a certain stage of the balloting, which would have been decisive? Had his personal friends believed that disclaimer was sincere, would they have continued to cast their votes in his favor? Were not direct solicitations addressed by one of his closest confidants to a member of Congress from New York, urging him to abandon Jefferson after the first or second ballot, as being in conformity with the prevailing wishes of the party, at Albany.*

True it was, Burr had kept aloof during the contest at Washington, but what was this caution but in accordance with the whole history of his life, multiplying contingencies and producing dilemmas, of which to take an opportune advantage, without personal committal? Descending to private incidents and to personal comments, his flagitious life was traced through many of its impurities, and his insidious character declared to be manifested in his shining, snaky eyes, his artificial smile, his silken wanton air, his slow gait, his stealthy feline step by step? And since his election as Vice-President, what evidence had he given of party fealty? How explain his vote on the Judiciary bill, alarming the friends of the administration, encouraging its adversaries? From what motive, with what design was he present at a festival of the Federalists in honor of Washington, against whom he never failed to utter sly contemptuous inuendoes; and what was the

* "Aristides," p. 95.

meaning of his ambiguous toast? Had he not suppressed by money, a volume, full of exposures of himself, and was he not at that moment countenancing a conspiracy to silence the public press by violence? Denials and imputations followed on the part of the associates of Burr; and a duel took place between De Witt Clinton and John Swartwout,—the bosom friend of the Vice-President,—marked with circumstances which shewed the temper of the desperate strife.

These dire feuds, prognostic of greater evils, would naturally turn the public attention more and more to Hamilton's conservative character; and the celebration of the second anniversary of the Declaration of Independence since Jefferson's advent to power, and the first since his proscriptive policy was avowed, shewed his place in the public esteem. While immediately around and below him the storms of party were raging, at distant points the name of Hamilton was first on the list of living American benefactors. "The Hero," "The Sage," "The Patriot," were the toasts drank in his honor; and looking to the great future sentence of mankind, "Posterity will do justice to his exalted virtue."

In vain did Hamilton stand aloof, regretting scenes so foreign to his nature, scenes which he had foretold, but now beheld in grieved silence. His distance was a censure; his silence a condemnation. To render deeper the dark shades, the exposures of Jefferson by Callender, previously mentioned, were at this time bruited forth, pandering to the hate of the malignant, shocking the upright. The mad worship of his devoted followers could not bear to see the veil uplifted from their idol. The Federalists, as a body, exulted, as they beheld him exposed naked to the public gaze. Jefferson was worse than all they had ever denounced him as being. These

were the proofs, the pregnant, incontrovertible proofs, proofs under his own hand. The Democrats resolved that Hamilton must be assailed. Old, worn out, disproved political calumnies were exhumed. The cry of monarchy was again raised. It was not Jefferson but his democracy that was the object of Federal attack; and in proof of Hamilton's hostility to the friend of the people, it was anonymously stated, that he was privy to the means which had tempted Callender to his perfidies. This atrocious calumny was instantly denied; and it was testified under oath, that Hamilton had expressed his regret that any communications had been opened with Callender, adding a caution, "in the strongest terms, to have nothing to do with so worthless a man, either directly or indirectly, on any topic whatever."*

The often iterated charges that Burr had intrigued with the Federalists had been met by him with total silence. This silence his partisans would no longer endure. He must personally deny them; and, at last, the Vice-President addressed a letter to his friend, the Democratic Governor of New Jersey, declaring, that "all the assertions and intimations," as to such intrigues, were "false and groundless." This broad denial was made public and appealed to as decisive. To counteract the effect of this letter, it was published, that Hamilton knew the facts of the intrigue, and had communicated them to his friends in Congress. Thus forced into public view, a statement was published,† that Hamilton had "declared that he had no *personal knowledge* of any negotiation between Colonel Burr and any person whatever, respecting the elevation of himself to the chief mag-

* Evening Post, April 7, 1804.

† Evening Post, October 13, 1802.

istracy." Farther than this he could not and he did not go,* and prudence forbade he should be asked to go; nor is it known, that any further inquiry on this subject was made of him. Intelligence of the interdiction of the privilege of Deposit at New Orleans, as previously stated, arrived at this time, and the public attention was fixed upon the issue of the great questions to which this procedure gave rise. There was a pause during these impending perils in the domestic discords of the Democracy.

The fortunate acquisition of Louisiana put an end to this alarm, and secured its influence over the Southern States. There all was quiet; but, in Pennsylvania, New York, and New England, harbingers of a tempest were seen in the clouds that hung gathering here and there in the disturbed skies. The politics of Pennsylvania were essentially turbulent. The plots against the Administration of Washington were mostly generated in Philadelphia, where the smaller leaders of the opposition were, many of them, foreigners, or of recent foreign extraction, acting upon a population, of which a large part is seen to have been highly inflammable. What the spirit that prevailed among them at this time was, is shown by a fact previously mentioned—the impeachment and dismissal of Judge Addison from the bench. This learned person presided over the Court of Common Pleas for the Western District of this State, the scene of the insurrection quelled by Hamilton. He was a Federalist, and had, as seen, in a letter, approved by Washington, maintained the legality of the Sedition law. His political opinions,

* In a recent life of Burr by J. Parton, it is stated, page 320, "Hamilton himself publicly avowed in the Evening Post, that he had no personal knowledge of, [or belief in,] the existence of any negotiations between Colonel Burr and the members of the Federal party." The words "*belief in*" are an interpolation.

not concealed, had given much offence to the Democrats. Upon pretexts, which, in more moderate times, would not have been listened to, after a failure to induce the interposition of the Supreme Court of the State against him, an impeachment was brought to trial before its Senate. Rejecting the decisive evidence in his favor, and refusing to vote on each article of impeachment separately, the Senate, in which there was but one Federal member, found a general verdict of guilt; and sentenced Addison to a deprivation of his office, though that office was held during good behavior. The prosecution was guided by Dallas, and a son of the Governor, McKean, Attorney General of the State. This unwarranted procedure was followed by an impeachment of three of the Judges of the Supreme Court of the State, who had offended in not lending themselves to the persecution of Addison, for the exercise of an undoubted power of the Court. The Governor, refusing to go the whole length of party violence, was denounced by Duane, still editor of the Aurora, and by Leib, one of its contributors, a denunciation which finally reached Gallatin.

In New York, the power of official proscription having been freely exerted towards the adherents of Burr, the contests became merely of a personal nature. The detailed acrimonious attacks of the Clintonians were met by like attacks on the part of the Burrites, amid which the Federalists were bombarded by both factions. The violence of the gazettes did not suffice. Pamphlets more violent followed, piling accusation upon accusation—fagots of wrath. Challenges again passed, one from Dayton of New Jersey, a friend of Burr, to De Witt Clinton, which was settled. Duels ensued. A second of De Witt Clinton in the duel of the previous year with Swartwout, and a brother of Swartwout, exchanged shots.

Another took place between a leading Federal editor and a Clintonian holder of office, who fell, staining with his blood the snowy ground, mortally wounded.

The city of New York was astonished. Its quiet citizens awoke, day after day, in anxious, curious alarm, lest the morning had come laboring with new intelligence of some new violation of the public peace; and the whole country turned its eyes in amaze towards this scene of blood. Party secrets, which policy had long excluded from view, were brought to light, while the air was filled with rumors of more hateful things, and menaces of more alarming divulgings. A vindicatory Reply was at last put forth, having no modern parallel in its savage ferocity.* Each charge against Burr was examined in succession, and testimony adduced to disprove them. Bold men gave forth their assertions, daring contradiction. Timid men, shrinking from intimated personal responsibility, put forth their certificates. Whispers of the intrigues and corruptions by which Jefferson had won from Burr his pledged supporters were now made public; and sharpest animadversions were freely cast upon De Witt Clinton and the Livingstons. Hamilton was also referred to; and it was stated, "as a well-known fact, that he uniformly and strenuously opposed the election of Burr to the Presidency."

It is not to be supposed that, with his knowledge of the reckless character of Burr, Hamilton was unaware at the time of his opposition to him, of the dangerous responsibility he was incurring. On the contrary, he stated in confidence, his "strong and deep conviction that he

* That which attracted most attention because of its barbarous personalities was entitled, "Aristides," from the pen of William P. Van Ness, a native of Vermont, removed to New York—a most confidential partisan of Burr.

should die by his instrumentality."* This long-deferred, labored vindication appeared at the moment when the election of a President and Vice-President was approaching; and doubtless was intended to bear upon it.

The acquisition of Louisiana, it was obvious, had secured Jefferson's triumph over all opposition, and had placed him beyond all competition. Burr saw this, and resolved to make a bold attempt to enter into terms with him. On the twenty-sixth of January, as Jefferson states,† he sought an interview with him, and was repulsed.

Jefferson had meanwhile resolved to engross the merit of the recent purchase from France, and to appropriate it to his personal popularity; and on the day after the visit of Burr, a resolution of thanks to him for this purchase was passed by the House of Representatives, which was followed by a festival, given to him by his numerous partisans in Congress, in celebration of this event. Unpropitious as his prospects were, Burr was of a temper to indulge hope under the most adverse circumstances. His advancement had been a succession of unexpected prizes, and he resolved to throw for another chance. George Clinton, it was ascertained, would not be a candidate for reëlection as Governor. Should Burr be nominated as Governor, this nomination might possibly, from motives of cautious policy, prompt his renomination as Vice-President; or, failing in this, which was more than probable from the dissensions which existed in New York, he might succeed there.

* A letter of J. Rutsen Van Rensselaer, dated Hudson, March 10, 1829, gives the particulars of a conversation between General Hamilton, Peter Van Schaick, and the writer, at his house in Claverack, in the autumn of 1800, of which this declaration is a part.

† Jefferson's Works, iv. 517. Randolph ed.

Burr had appealed to Jefferson's private sympathy, perhaps, as Jefferson states, to his fears; his ever busy abettors appealed to the sympathies of the people. They had denied the intrigues and cabals charged upon their leader; and they asked, Why should the party desert a man, who, in accepting the second office under the National Government, had sacrificed entirely his professional emoluments? Would he have done this, they asked, had he anticipated that he must so soon be driven, in poverty, to private life? It was not to be believed. Why, then, without any just imputation on his official conduct, so limit his career? He had often been depressed. He had often risen. He had served the party in its adversity, he had raised it to power. This could not be denied. Why now, at the moment when Democrats could afford to be generous, through his services, was he to be made a victim, a conspicuous—the only victim? He could not be put down—he would not capitulate. On the twentieth of February, a meeting of his followers was called in the city of New York, and he was nominated as Governor. Unmindful of all these appeals, four days after, a public caucus was held of the Democratic members of Congress at Washington, and Jefferson was unanimously presented by it to the people, for reëlection to the Presidency.

It has been seen, that Governor Clinton had declared, before he saw him elected to this office, "that he entertained an unfavorable opinion of Jefferson's talents as a statesman, and of his firmness as a Republican; that he conceived him an accommodating trimmer, who would change with times and bend to circumstances for personal promotion." Nevertheless, in a recent message* to the Legislature of New York, Clinton eulogised his "wise

* January 31, 1804.

and virtuous administration;" and the same caucus which nominated Jefferson as President, (one hundred and eight members of Congress present,) nominated Clinton as Vice-President. *Not one vote* was given for Burr.

His followers reeled under this blow; but, like Burr, they would not capitulate. Their desperate leaders, without capital, or character, or consequence, had no other influence than that derived from their known desperation; at war with society, no other hope than that which sprang from their conscious power to disturb it. If they could succeed, it must be in the intervals of its weakness. To such men the possession of the patronage of the State was a most inviting object. They could avenge themselves upon their enemies. Their relief from penury would be immediate. The future would open to them a more extended field. But this could not be accomplished without the coöperation of the Federalists; and though many had deserted, yet the disinterested, the sincere, the virtuous of that party, still looked to Hamilton as their citadel. In their minds nothing had occurred, since the elevation of Burr to the Vice-Presidency, to diminish the distrust which a knowledge of his whole career had firmly established. Nor could they indulge a hope, that a man, whose life had been a scene of double, petty intrigue, would wield power with any other than selfish views, or for any other than personal purposes.

In seventeen hundred and ninety-two, when seeking the office he now sought, they declared, that he had made professions to the Federal party, which his subsequent conduct proved to have been utterly insincere. Compelled to retreat, in order to recommend himself to the Democratic interests, he was foremost in defending the false canvass which had given to Clinton, the pretext for an usurpation; and was rewarded by an office, and by a

seat in the Senate of the United States. In that body, his conduct was subtle, but his subtlety was without system. Lending himself to the support of men he hated and to the extremest measures of a policy he often disapproved—without appearing to perceive the issues of his course: alarmed of a sudden, and, at the moment, when decision was most required,—retreating and disappointing expectation,—then excusing his defection by some frivolous pretext. To one who viewed him solely as to the matter in question he appeared a nimble, dexterous juggler, content with the cozenage he practiced; or a trifler in affairs of infinite moment, if that man could be so regarded, whose most sacred confidences were the sports of his lightest pleasures, and whose pleasures were the instruments of his darkest crimes. "A pestilent politician," as to whom, Hamilton in private, observed,* "other men have their vices. Vice is the element in which that man lives." Prying unauthorized into the most confidential papers of the Government, until forbidden by an express order of Washington. Brought forward to his view, in seventeen hundred and ninety-four, by leading men as a candidate for a mission to France, and rejected by him for the avowed reason of a want of confidence in his "*integrity.*" In ninety-seven, defeated by Schuyler in the choice of Senator to Congress from New York, and receiving only two votes from the legislature in favor of his continuance in office. Second to Monroe in a probable duel growing out of a base plot Burr had originated against Hamilton. Chosen to the legislature in the following autumn, devoting his time to secure influence with obscure members of that body, itinerants into the new sparse settlements of its recently

* To his friend, the Reverend John Mason.

organized Western Counties, thus raised by him to a flattered importance. Again elected to the Legislature, seen mingling with both parties, acting with the Democrats in public, yet not in good faith, caressing the Federalists in private,—prompting them to moves he did not care to make,—throwing the censure upon others, deriving the benefit to himself—obtaining a Bank charter by trick to gain the support of men of capital, and the author of an insolvent act, which, though it violated all the sanctity of contracts, purchased for him, at his cheap sacrifice of principle, a command over the whole corps of desperate debtors. Again a candidate for the Legislature, and rejected by the people, because of his artifice in obtaining the charter of that Bank, before it had begun its operations, and before the influence of its money could be felt on the election. Subsequently, in part, through the influence of that bank, of which he was chosen a director, gaining the vote of the City of New York, and exalting himself to an equal vote with Jefferson, as Chief Magistrate of the Nation. His conduct during the Presidential canvass was recent before their eyes, and though the proofs were not made public, yet no doubts were entertained, that he had failed. not because of his avoidance of intrigue, but from the superior intrigues of Jefferson, triumphing over his competitor's irresolution. As Vice-President, exciting the hope that he would oppose a repeal of the Judiciary Act, and thus encouraging the confidence of the friends of the Constitution;—admitting in private the constitutionality of the repeal, and only doubting "its equity and expediency."* At one moment, attending a festival of Federalists in commemoration of the birthday of Washington, to which he was invited by

* Life of Burr, ii. 171, by M. L. Davis.

the presiding officer, Gouverneur Morris, and giving as a sentiment, "An union of all honest men,"—at another time, when questioned as to the import and purpose of this sentiment by a member of the Democratic party, declaring, "that he thought he would give something that would afford a *joke*, and that he had often, in his private moments, pleased himself with laughing at it." To keep the chances open for a second election, defeating, in the first instance, by the votes of Gouverneur Morris, and of Tracy, the amendment of the Constitution, proposed by Hamilton, which designated to the people the offices to fill which they were entitled to vote, thereby securing to them the objects of their choice, in the persons of the President and Vice-President of the United States. When returned to New York, the supporter of a press which violated all the privacy of society, polluting it, and boasting its pollutions; encircling himself with a body of profligate conspirators—known as—"the little band," privy to, if not the abettor, of political feuds terminating in bloodshed; and seeking to silence opposition by intimidation. Such a man—so familiar with crime—so unstable, and so false, the Federalists were asked to support.

On the fifteenth of February, five days prior to the nomination of Burr in the city of New York, Lansing was nominated by a large vote of the Democratic members of the State legislature, as successor to Clinton; by whom he had recently been appointed Chancellor. What course the Federalists should pursue at this election, for though too weak to elect a member of their own party, it was in their power to decide the result, was the important question. Five days previous to Lansing's nomination, a few leading Federalists held an informal conference at Albany to consider the expediency of nominating a Federal can-

didate; if deemed not expedient, whether, as a party, they ought to support either candidate of their opponents.

Hamilton viewing it as a question far beyond the politics of New York, but as, in fact, a question of the preservation or dissolution of the Union, was present at this conference. He avoided taking any part in the conference until the moment when the interview was about to end. Then he arose and read a paper, which, in order to guard against any misconception, he had prepared, assigning the reasons for a preference of Lansing. That this preference was solely on public grounds is shown by the fact, that the personal ill feeling of Lansing towards him, seen in the Convention of New York, which adopted the Constitution, had manifested itself recently during an important trial.

The paper which Hamilton read, and it is of very high importance, is entitled:

"Reasons why it is desirable that Mr. Lansing rather than Col. Burr should succeed.

"1. Col. Burr had steadily pursued the track of democratic politics. This, he has done either from *principle* or from *calculation*. If the former, he is not likely now to change his plan, when the Federalists are prostrate, and their enemies predominant. If the latter, he will certainly not at this time relinquish the ladder of his ambition, and espouse the cause or views of the weaker party.

"2. Though detested by some of the leading Clintonians, he is certainly not personally disagreeable to the great body of them, and it will be no difficult task for a man of talents, intrigue and address, possessing the chair of Government, to rally the great body of them under his standard, and thereby to consolidate for personal purposes, the mass of the Clintonians, his own adherents among the Democrats, and such Federalists, as, from personal good will or interested motives, may give him support.

"3. The effect of his elevation will be to reunite under a more adroit, able, and daring chief, the now scattered fragments of the Democratic party, and to reinforce it by a strong detachment from the Federalists.

For though virtuous Federalists, who, from miscalculation, may support him, would afterwards relinquish his standard, a large number from various motives would continue attached to it.

"4. A further effect of his elevation, by the aid of Federalists will be, to present to the confidence of New England, a man, already the man of the Democratic leaders of that country, and towards whom the mass of the people have no weak predilection, as their countryman, as the grandson of President Edwards, and the son of President Burr. In vain will certain men resist this predilection, when it can be said, that he was chosen Governor of this State, in which he was best known, principally, or in a great degree, by the aid of Federalists.

"5. This will give him fair play to disorganize New England, if so disposed; a thing not very difficult, when the strength of the Democratic party in each of the New England States is considered, and the natural tendency of our civil institutions is duly weighed.

"6. The ill opinion of Jefferson, and jealousy of the ambition of Virginia, is no inconsiderable prop of good principles in that country. BUT THESE CAUSES ARE LEADING TO AN OPINION, THAT A DISMEMBERMENT OF THE UNION IS EXPEDIENT. It would probably suit Mr. Burr's views to promote this result, TO BE THE CHIEF OF THE NORTHERN PORTION; and placed at the head of the State of New York, no man would be more likely to succeed.

"7. If he be truly, as the Federalists have believed, a man of irregular and insatiable ambition, if his plan has been to rise to power on the ladder of Jacobinic principles, it is natural to conclude that he will endeavor to *fix* himself in power by the same instrument; that he will not lean on a fallen and falling party, generally speaking, of a character not to favor usurpation, and the ascendancy of a despotic chief. Every day shews, more and more, the much to be regretted tendency of Governments entirely popular, to dissolution and disorder. Is it rational to expect, that a man, who had the sagacity to foresee this tendency, and whose temper would permit him to bottom his aggrandisement on popular prejudices and vices, would desert this system at a time, when, more than ever, the state of things invites him to adhere to it?

"8. If Lansing is Governor, his personal character affords some security against pernicious extremes; and at the same time renders it morally certain, that the Democratic party, already much divided, and weakened, will moulder and break asunder more and more. This is certainly a state of things favorable to the future ascendancy of the wise and good.

"May it not lead to a recasting of parties, by which the Federalists will gain a great accession of force from former opponents? At any rate, is it not wiser in them to promote a course of things, by which schism among the Democrats will be fostered and increased, than one likely, upon a fair calculation to give them a chief, better able than any they have yet had, to unite and direct them; and in a situation to infuse rottenness in the only part of our country which still remains sound—the Federal States of New England?"

That Hamilton's apprehension of an existing "opinion, that a dismemberment of the Union" was "expedient," would have been avowed in so deliberate, formal a manner, on such an occasion, and for such an object, on light grounds, is not to be supposed.

In the year seventeen hundred and ninety-six, looking to the possibility of the election of Jefferson, and the establishment of a Southern domination over the United States, an appeal* was made to the people of Connecticut, drawn with much care, preparing them for and pointing to a severance of the Union. "The Northern States," it urged, "can subsist as a nation, as a Republic, without any connection with the Southern. It cannot be contested, that if the Southern States were possessed of the same political ideas, an union would be still more desirable than a separation. But when it becomes a serious question, whether we shall give up our government, or part with the States south of the Potomac, no man north of that river, whose heart is not thoroughly democratic, can hesitate what decision to make. * * * I shall, in some future papers, consider some of the great events which will lead to a *separation* of the United States; show the importance of retaining their present Constitution, *even at the expense of a separation;* endeavor to *prove, the impossibility of an*

* In "The Connecticut Courant" published at Hartford. The extracts are taken from Randolph's Jefferson, iii. 634–5.

Union for any long period in future; both from the moral and political habits of the citizens of the Southern States; and finally examine carefully to see, whether we have not already *approached the era when they must be divided.*" To enforce these ideas, comments followed on the condition of the negroes in the Southern States.

Thus in New England, in the seventh year of this Government, looking to a loss of political power, this dangerous heresy was deliberately promulged. The success of Adams put to rest there this unquiet temper; and, from similar promptings of a disordered ambition, Kentucky and Virginia are beheld, ere three years elapsed, guided by Jefferson and Madison, propagating opinions hostile to the supremacy of the National Government. The success of Jefferson, in its turn, satisfied the South; and again among the leaders of the defeated party in New England, and to a very limited extent, in New York, were indulged similar intimations and purposes. With his eyes ever fixed on the Unity of this great Empire, and with his life ever ready to be sacrificed to the preservation of that Unity, which it had been the work of his whole life to establish, Hamilton watched over it with untiring vigilance, marking in its course every threatening cloud. His private correspondence revealed to him the danger he feared, a growing danger, about to assume a positive, actual, active existence. A twelvemonth after Jefferson's election, he is seen writing to Bayard: "It is well that it should be perfectly understood by the truly sound part of the Federalists, that there do, *in fact*, exist intrigues in good earnest between several individuals, *not unimportant*, of the Federal party, and the person in question, Burr, which are bottomed on motives and views by *no means auspicious to the real welfare of the Country.*" It was under this conviction and to defeat these views, he suggested his plan

previously given for the organization of an association to be extended throughout the United States, for "the support of the Constitution;"—and, in addition to the great permanent motive of securing to the people in the choice of President, the object of their choice, he had proposed his amendments as to the elections of that officer. The adoption of one of these amendments was decisive of the result he sought in it.

The jealousies and disappointments which the proscriptive policy of Jefferson had quickened to hot hostility —his alarming theories as to the commerce of the country, his unwillingness to impart even the indirect aid of the government in its revenue system to the protection of American industry, the unconcealed purpose of the Slaveholding States in their limited construction of the powers of the General Government, to enfeeble its protective action, the systematic plan in the exertion of the national patronage of excluding the strong men of the North from power and raising up venal parasites and subservient instruments to an undue, but controlable importance, all these, had combined to fix dissatisfaction among the able men who had hitherto had a voice in the counsels of the nation. They saw the inevitable result of this system of politics, in the long, perhaps permanent domination of the Southern Slave power acting upon and using the Democratic opinions of the masses in the other States. A portion of those masses might, it was supposed, be reclaimed; but a preponderating influence was ever at command in the numerous body of emigrants from Ireland, among whom were found not a few, always clamoring against the oppressions of England, which rendered themselves little more than slaves, and yet always ready to defend and sustain those whose power rested on the institution of Slavery.

Exasperated with the present policy of the Administration and utterly distrustful of the future, there were those among the Federalists, who believed, though most erroneously, that the only remedy would be an early severance of the Union and consolidation of the Northern States.

In this frame of mind, the acquisition of Louisiana came upon them as a final doom. Among its consequences was predicted a separation of the Union; and forthwith conferences to this end were held. In the debates on the Treaty for the purchase of Louisiana, the "views by no means auspicious to the real welfare of the country," to which Hamilton had pointed, were opened.

A senator from New Hampshire declared in the Senate, "the Constitution never contemplated the accession of a foreign people or the extension of our territory." He denied, that a new State "formed from without the limits of the original territory could be admitted into the Union, without the pre-consent of each of the present States. Admit this western world into the Union; and you destroy at once the weight and importance of the Eastern States, and *compel them to establish a separate independent empire.*"

This supposed necessity soon ripened into a project, and the intrigues with Burr, also pointed to by Hamilton, were in progress. This senator states, in his Journal, an interview with Burr, not long after this declaration in the Senate, in which "the opinion was unequivocally declared, that the United States would soon form two distinct and separate governments,"—that "Burr conversed very freely, and that the impression made on his mind was, that he not only thought such an event would take place, but that it was necessary it should. To that opinion," he states, "I was myself then a convert. Yet, after critical-

ly analyzing his words, there was nothing in them that necessarily implied his approbation. Perhaps no man's language was ever so apparently explicit and at the same time so covert and indefinite." About the same period,* this senator wrote to a friend in Massachusetts: "What do you wish your senators and representatives to do here? We have no part in Jefferson, and no inheritance in Virginia. Shall we return to our homes, set under our own vines and fig-trees, and *be separate from the slaveholders?*"

A clergyman, soon after,† writes to this senator, from Massachusetts: "If we were peaceably severed from the rest of the United States, with perhaps some other States joined to us, and left to manage our own affairs in our own way, I think we should do much better than now;" to whom this senator replied,‡ "I hope the time is not far distant when the people East of the North River will manage their own affairs in their own way, without being embarrassed by regulations from Virginia; and *that the sound part will be separate from the corrupt.*"

In the debate on the Louisiana treaty in the House of Representatives, the leading Federal member from New England, Roger Griswold, was not less strenuous in his opposition, wholly denying any power under the Constitution to incorporate a foreign territory or a foreign people into the American Union. He also pointed to the near probable consequence: "The vast, unmanageable extent which the accession of Louisiana will give to the United States, the consequent dispersion of our population, and the distribution of the balance which it is so important to maintain between the Eastern and the Western States, *threatens, at no very distant day, the subversion*

* Letter of William Plummer, Jan. 19, 1804. † Feb. 2, 1804.
‡ March 10, 1804.

of our Union." * This prophecy, it will be seen, "at no very distant day," became a project.

Fully apprised of the feelings and views in regard to it, two days † after Burr's nomination as Governor, his press opened in accordance with them. "They offer," it declared, "Burr, as a man who must be supported, or the weight of the Northern States in the scale of the Union is irrecoverably lost. If the Southern, and particularly the Virginia interests, are allowed to destroy this man, we may give up all hope of ever furnishing a President to the United States. The influence of these Northern States in the affairs of the Union, their future prosperity, imperiously demand, therefore, that we sustain Aaron Burr from sinking in the fury of this contest. We can only do this by making him our Governor."

Lansing, in the first instance, consented to accept the nomination of Governor; but his fears were practised upon; and "believing," as he stated, "his hopes that his nomination would afford a point of union to his party were too sanguine," he suddenly retracted his consent.

The party of the Administration felt the importance of there being no delay in presenting to the people a substitute for Lansing; and the followers of Clinton, acting in concert with the Livingstons, nominated Chief-Justice Lewis, the brother-in-law of Chancellor Livingston, as successor to George Clinton.

To give strength to this nomination, many of the leading Democrats published their approval of it. Among these were seen the names of three of his associate judges of the Supreme Court of the State—the first and the last occurrence of the kind in its annals.

* October 25, 1803. † Morning Chronicle, February 22, 1804.

Hamilton now wrote to King:* "It is a fact to be regretted, though anticipated, that the Federalists very extensively had embarked with zeal in the support of Burr; yet an impression to the contrary and in favor of Lansing had been made, and there was good ground to hope that a proper direction in the main might have been given to the current of Federalism. The substitution of Lewis has essentially varied the prospect; and the best informed among us here agree that the Federalists, as a body, could not be diverted from Burr to Lewis, by any efforts of leading characters, if they should even deem the support of the latter expedient." In this view of the matter, the nomination of a Federal candidate, in the person of King, was thought of, but the idea was not pursued.

Some time after the nomination of Lewis, a report was circulated, that Hamilton had now resolved to give his influence to Burr. This was promptly denied; and it was publicly stated, "It is now well ascertained that that gentleman will take no part in support of either of the present candidates."†

His avowed neutrality suited the purpose of neither; and, in contradiction of a statement by the friends of Lewis, that Hamilton had decided to depart from his previous purpose, and to give him his support, his determination to take no part in the election was announced. The partisans of Burr now assumed an attitude of defiance, and declared that it was in their power, in despite of Hamilton, to divide the Federalists and break down his influence. An anonymous publication followed, from the pen of a confidential friend of Burr, pouring out upon

* Albany, February 24, 1804. Hamilton's Works, vi. 559.

† Evening Post, March 23, 1804.

Hamilton a torrent of abuse. In this paper, it was asserted that he had originated the negotiation between Burr and the Federalists, during the Presidential canvass, in order to disgrace him. The untruth of this charge was proved by the volunteer denial of it under the oaths of persons cognizant of its utter falsity.

The public disclosure of the fact that Hamilton would not support Burr, following the statement made by him at the conference at Albany of his fears of a dismemberment of the Union, to which project, if elected Governor, he would be a dangerous party, was of sufficient weight to divide the Federal vote. In confirmation of these fears, facts came to his knowledge after the nomination of Burr confirming his forebodings.

"Late in February eighteen hundred and four," an officer of the late army states,* "on a journey from Philadelphia to New York, I fell in company with an old acquaintance, who told me that a division of the United States was talked of, the dividing line to be the Potomac or the Susquehanna. About the first week in March I saw General Hamilton at Albany and acquainted him with what I had heard, mentioning my authority, which was highly respectable. The idea of Disunion, he could not hear of without impatience, and expressed his reprobation of it in very strong terms. 'The bare attempt to carry such a Disunion into effect,' he said, 'would necessarily throw the people of the United States into two great parties, geographically defined; that the Northern division must prevail in the struggle that must ensue, but, that whichever might prevail, the result must be, destruction to the present Constitution, and eventually the

* A. Hoops, Major in the Army of the U. S. in 1798, and previously an officer in the army of the Revolution. Letter dated Washington, March 30, 1829.

establishment of separate governments, formed on principles in their nature hostile to civil liberty.' The conversation lasted more than an hour, with two short occasional interruptions. The subject had taken such fast hold of him that he could not detach himself from it, until a professional engagement called him into Court. The sentiments of General Hamilton on the subject of Union, were well-known. Sincerity was the basis of his character, and under its predominating influence, they were expressed with equal freedom and force on all proper occasions." An intelligent member of the Democratic party, who had served in the staff of Baron Steuben,* also relates, "I well remember to have had a conversation with the late General Hamilton in eighteen hundred and four upon the subject of the then state of politicks of our country, and amongst other matters of a project then said to exist for a severing or division of the Union. He said, that he had been applied to in relation to that subject by some persons from the Eastward, remarking, 'You know that there can not be any political confidence between Mr. Jefferson and his administration and myself, but I view the suggestion of such a project with *horror*.' I have frequently mentioned this amongst my acquaintance." "Against such a project," Hamilton remarked, "we old soldiers must all unite."

Positive evidence, indeed, came to his knowledge, that Burr had been directly approached, and had not rejected the overture.

The public intimation in the debate on the Louisiana treaty by Griswold, of the probability, "at no very distant day, of a *subversion* of the Union," it has been stated, soon became a project. "There was no man,"

* James Fairlie, Major in the Army of the Revolution. Letter to the Author, dated 21st March, 1829.

Plummer, the Senator from New Hampshire, previously referred to, relates, "There was no man, with whom I conversed so often, so fully and freely as with Roger Griswold. He was without doubt or hesitation, decidedly in favor of dissolving the Union, and establishing a Northern Confederacy. He thought it might be effected peaceably, without a resort to arms; and entered into a particular detail of the mode of effecting it."

On the eleventh of March, a leading member of Congress addressed a letter from the seat of Government to a person who had been a member of Washington's cabinet, and who, from his relations with Hamilton and his own subsequent course, seeing the dangers it portended, it cannot be doubted, communicated it to him.* "Many of the Democratic members of Congress from the Northern States have become sensible of the overbearing influence of Virginia. A few of them appear disposed to attempt some Union which shall create a Northern interest, and array it in opposition to Virginia, but this disposition is by no means universal. The difficulty arises from the want of character and talents in those who have been sent to Congress. * * * Many of the others grumble about Virginia, but go every length in their votes. The particular friends of Col. Burr are more clamorous, but these are only to be found in the delegation from New York. Some attempts have been made to unite the Northern representation, but have not succeeded. Yet it is certain, that much dissatisfaction exists, and the circumstances attending the nomination of a Vice-President, shew that there is, in some degree, a division between the Northern and Southern Democrats in Congress. The improbability, however, of forming a

* Washington, March 11, 1804.

Northern interest in Congress by the union of parties, ought not to discourage exertions at home." Having again stated the feeble character of the Democratic representatives from the North, he adds—"The formation, therefore, of a Northern interest must commence at home. The dissatisfaction which has been created here, will probably promote the object.

"I have wished to ascertain, if possible, the views of Col. Burr in relation to the General Government, but having had no intimacy with him myself, and finding no one on the spot, calculated or indeed authorized to require an explanation, I have obtained but little information. He speaks in the most bitter terms of the Virginia faction, and of the necessity of an union at the Northward to resist it, but what the ultimate objects are which he would propose, I do not know. It is apparent, that his election is supported in New York on the principle of resisting Virginia, and uniting the North; and it may be presumed that the support given to him by Federal men, would tend to reconcile the feelings of those Democrats who are becoming dissatisfied with their Southern masters. But it is worthy of great consideration, whether the advantage gained in this manner will not be more than counterbalanced by fixing on the Northern States a man, in whom the *most eminent* of our *friends* will not repose confidence. If Col. Burr is elevated in New York to the office of Governor by the votes of Federalism, will he not be considered, and must he not, in fact, become the head of the Northern interest? His ambition will not suffer him to be second, and his office will give him a claim to the first rank. This is a point which, in my judgment, requires great consideration. Although the people of New England have not, on ordinary occasions, a right to give an opinion in re-

gard to New York, yet upon this occasion we are almost as deeply interested as the people of that State can be. If any other project can be fallen on which will produce the effect desired of creating a Union of the Northern States, I should certainly prefer it. We have endeavored during this session to rouse our friends in New England to make some bold exertions in that quarter. They generally tell us that they are sensible of the danger, that the Northern States must unite, but they think the time has not yet arrived. Prudence is undoubtedly necessary, but when it degenerates into procrastination it becomes fatal. Whilst we are waiting for the time to arrive in New England, it is certain the Democracy is making daily inroads upon us, and our means of resistance are lessening every day. Yet it appears impossible to induce our friends to make any decisive exertions. Under these circumstances, I have been induced to look to New York; and, as unpleasant as the thing may be, to consider a union in the election of Col. Burr, as the only hope which, at this time, presents itself, of rallying in defence of the Northern States.

"Col. Burr leaves this place to-morrow on his return to New York, and it may, perhaps, be in the power of gentlemen to ascertain his views. Those who are directly concerned in the election have certainly a right to demand a full explanation, and I do not see how he can refuse it.

"The Session will probably close before the end of the month, and I have engaged to call on the Vice-President as I pass through New York. The manner in which he gave me the invitation appeared to indicate a wish to enter upon some explanation. He said, he wished very much to see me, and to converse, but his situation in this place did not admit of it, and he begged me to call on him at New York. This took place yesterday in the library.

Indeed, I do not see how he can avoid a full explanation with Federal men. His prospects must depend on the union of the Federalists with his friends; and, it is certain, that his views must extend much beyond the office of Governor of New York. He has the spirit of ambition and revenge to gratify, and can do but little with his 'little band' alone.

"In forming the Northern party, it is important to consider what the *ultimate views* of that party ought to be, and to avoid, as much as possible, embarrassing the party, with men who will oppose the accomplishment of those ultimate objects.

"I have no hesitation myself, in saying, that there can be no safety to the Northern States *without a separation from the Confederacy.* The balance of power under the present Government is decidedly in favor of the Southern States, nor can that balance be changed or destroyed. The extent and increasing population of those States must for ever secure to them the preponderance which they now possess. Whatever changes, therefore, take place, they cannot permanently restore to the Northern States their influence in the Government; and a temporary relief can be of no importance. The question then is, can it be safe to remain under a Government in whose measures we can have no effective agency? If the views of the Southern States were in unison with ours; if the system of policy, which they wish to pursue, equally affected every part of the Union, there would be some security under their management; and although we might be excluded from a participation in the power, yet we might expect to find our interests promoted by measures which promoted their own. But, unfortunately, this is not the case. Their enmity to commerce, on which our prosperity depends, is rivetted and unyielding. Besides, there is

an inveterate enmity and jealousy of the Northern States, which pervades every part of the Southern and Middle States. This spirit is evidently increasing. Since they have obtained the power they have become arrogant, and appear determined to carry this spirit into all classes of society, with a view of rivetting the prejudices so strongly as to prevent a union of views between North and South, under all future circumstances. What, then, are we to expect, under the management of the most intelligent of those people? Must we not continue to pay the principal part of the expenses of Government without receiving in return, either patronage or protection?

"Without considering, therefore, that dreadful system of Jacobinism which at this time governs our public counsels, can we hope for prosperity from the present Union and Government? But if we add to those considerations the dangers which immediately threaten us, can there be room for doubt?" After dilating on this subject, this leading member of Congress adds: "For one, therefore, I do not look to a Southern combination for the purpose of correcting the views of the National Government. I believe the vices of this Government incurable. The thing, itself, is radically wrong.

"With these views I should certainly deem it unfortunate to be compelled to place any man at the head of the Northern interest who would stop short of the object, or would only use his influence and power for the purpose of placing himself at the head of the whole Confederacy as it now stands. If gentlemen in New York should entertain similar opinions, it must be very important to ascertain what the ultimate objects of Col. Burr are. It must occur to every Federal man, that objections of a very serious nature oppose the election of Col. Burr, whether that election is viewed in relation to a general union of

the Northern States, or in relation to the power which the office will give a man of Col. Burr's talents and ability to oppose a more partial Union, if it should be attempted. But, my dear Sir, what else can we do? If we remain inactive, our ruin is certain. Our friends will make no attempts alone. By supporting Mr. Burr we gain some support, although it is of a doubtful nature, and of which, God knows, we have cause enough to be jealous. In short, I see nothing else left for us. *The project which we had formed* was, to induce, if possible, the Legislatures of the three New England States who remain Federal, to commence measures which should call for a reunion of the Northern States. The extent of those measures, and the rapidity with which they shall be followed up must be governed by circumstances. The magnitude and jealousy of Massachusetts would render it necessary that the operation should be commenced there. If any hope can be created that New York will ultimately support the plan, it may perhaps be supported." * * * "I have examined the interest which the people of the Northern States have in the funds, and I find it considerably less than the proportion of debt which these States ought to pay. This arises from the large purchases made by foreigners in the funded debt, so that it will be in our power to charge ourselves only with our just proportion of the debt, and still do justice to our own people. And with the superior means which we shall possess, it may be easily accomplished. We may also liberate ourselves entirely from the Louisiana Stock, and leave that to be paid by those for whose benefit it was created. Our proportion of the funded and Dutch debt, when compared with our means, will be nothing; and we may manage our affairs in our own way."

In pursuance of the appointment, an interview took

place between this member and Burr at the residence of the latter in New York, on the fourth of April. With the same cautious non-committal he had shown during the presidential election, and recently at Washington, Burr stated that "he must go on democratically to obtain the Government; that, if he succeeded, he should administer it in a manner that would be satisfactory to the Federalists. In respect to the affairs of the nation, Burr said, that the Northern States must be governed by Virginia, or govern Virginia, and that there was no middle course —that the Democratic members of Congress from the East were in this sentiment, some of those from New York, some of the leaders in Jersey and likewise in Pennsylvania." The effect of this conversation was to induce the member to wish Burr success, which would, it was supposed, be much affected by the result of the election in Connecticut, then near at hand. On the day of the interview between him and Burr, an address was issued to the people of that State. One of the chief topics of the Address was the amendment to the Constitution proposed by Hamilton, but of which the source was not known, designating the offices of President and Vice-President for which the electoral votes were to be cast. Jefferson was looking anxiously to its adoption. "If the amendment of the Constitution passes Rhode Island," he wrote, "and we expect to hear in a day or two, the election for the ensuing four years seems to present nothing formidable."* Nor can it be supposed, that this effect was out of the view of all of those who had opposed its recommendation, when their sentiments at a dangerous crisis are recollected.† The address to Connecticut declared, "the plan of this amendment is to bury

* Jefferson to Gerry. March 3, 1804. Jefferson's Works, iv. 536, ed. 1854.

† Appendix H.

New England in oblivion, and put the reins of Government into the hands of Virginia for ever." "They, the Democrats," it was urged, "have seized on a moment of delirious enthusiasm to make a dangerous inroad on the Constitution; and to prostrate the only mound capable of resisting the headlong influence of the great States and preserving the independence and safety of the small ones." This appeal to her State pride was successful, and Connecticut elected a large majority of Federalists to her Legislature; nor was the language of disunion concealed.

It reached the ears of Jefferson. He writes on the sixteenth of April:* "You mentioned a Federal scheme afloat, of forming a coalition between the Federalists and Republicans of what they called the seven Eastern States. * * * The idea of forming seven Eastern States is moreover clearly to *form the basis of a separation of the Union.*" Ten days after, the election was held in the State of New York, and Burr, though he received many votes from the Federalists, was defeated by a large majority.†

* Jefferson to Granger. Jefferson's Works, iv. 542.

† Lewis is stated to have received 35,000 votes, Burr 28,000.

CHAPTER CLXVIII.

The reputation which followed Hamilton's extraordinary effort in the recent libel suit, he found on his return to the city of New York, had preceded him. Indeed, for some time, in the circle in which he moved, it was the absorbing topic of conversation. With the deep sympathy, which is the strongest proof and the highest tribute to genius, each of his friends seemed anxious to exalt and to appropriate almost to himself a part of the merit of this great achievement. He was now again engaged in the urgent labors of his profession, but amidst these labors he found time for society and for his family.

His chief relaxation was in the culture and adornment of the "Grange." There, reading with increased interest treatises on trees and horticulture, on the changes and influences of the seasons, the composition and adaptation of soils to the various growths, he enjoyed those pure delights which cultivated intelligence seeks and surely finds in the wonders, the harmonies, and the minute diversities of rural scenes. Mingling at times with his humble neighbors, he sought their practical information, and repaid it with kind offices. With a heart swelling with gratitude to the Author of his being, he observed to his wife, "I may yet live twenty years, please God, and I will one day build for them a chapel in this grove."

His religious feelings grew with his growing intimacy with the marvellous works of nature, all pointing in their processes and their results to a great pervading, ever active Cause. Thus his mind rose from the visible to the invisible; and he found intensest pleasure in studies higher and deeper than all speculation. His Bible exhibits on its margin the care with which he perused it. Among his autographs is an abstract of the Apocalypse—and notes in his hand were seen on the margin of "Paley's Evidences." With these readings he now united the habit of daily prayer, in which exercise of faith and love, the Lord's prayer was always a part. The renewing influences of early pious instruction and habit appear to have returned in all their force on his truest sensibilities, quickened by the infidelity shown in the action of the political world, and in the opinions and theories he had opposed, as subversive of social order. "War," he remarked, on one occasion, "by the influence of the humane principles of Christianity had been stripped of half its horrors. The French renounce Christianity, and they relapse into barbarism. War resumes the same hideous form which it wore in the ages of Gothic and Roman violence." It was the tendency to infidelity he saw so rife that led him often to declare in the social circle his estimate of Christian truth. "I have examined carefully," he said to a friend from his boyhood, "the evidence of the Christian religion; and, if I was sitting as a juror upon its authenticity, I should unhesitatingly give my verdict in its favor."* To another person, he observed, "I have studied it, and I can prove its truth as clearly as any proposition ever submitted to the mind of man."

A short note written at this time to a young friend speaks the state of his mind:

* Reminiscences of General Morton.

"NEW YORK, April 13, 1804.

"DEAR SIR:—The post of to-day brought me a letter from you, and another from ****. I have no doubt the latter would serve you if he could, but he cannot at this time. On the whole, I would advise you to return to New York, and accept any respectable employment in your way till an opportunity of something better shall occur. 'Tis by patience and perseverance that we can expect to vanquish difficulties and better an unpleasant condition. Arraign not the dispensations of Providence. They must be founded in wisdom and goodness; and when they do not suit us, it must be because there is some fault in ourselves which deserves chastisement, or because there is a kind intent to correct in us some vice or feeling, of which, perhaps, we may not be conscious; or because the general plan requires we should suffer partial ill. In this situation, it is our duty to cultivate resignation and even humility; bearing in mind, in the language of the poet, that it was 'Pride which lost the blest abodes.' With esteem and regard."

His home was his delight; he writes to his wife: "I discover more and more that I am spoiled for a military man. My health and comfort both require that I should be at home—at that home where I am always sure to find a sweet asylum from care and pain." "It is absolutely necessary to me," he wrote at another time, "to hear frequently from you and my dear children. While all other passions decline in me, those of love and friendship gain new strength. It will be more and more my endeavour to abstract myself from all pursuits which interfere with those of affection. 'Tis here only I can find true pleasure. In this I know your good and kind heart responses to mine. Your father and mother are both anxious to visit you. They are as kind to me as ever, and seem to have discovered the full extent of your worth. Heaven bless you and reward you with all the happiness you deserve." He writes, journeying to Albany: "I remark, as I go along, every thing that can be adopted for the embellishment of our little retreat, where

I hope for a pure and unalloyed happiness with my excellent wife and sweet children. In proportion as I discover the worthlessness of other pursuits, the value of my Eliza and domestic happiness rises in my estimation." What a home Hamilton's lovely nature made to all its inmates! By his family he was adored; the humblest member of his household seemed contented with his lot, as he walked forth at early morn to direct their labors with kind greetings and kinder smiles. "Would not this be well?" "Might not this be better?" were the terms of his guidance. Two daughters and five sons remained to him. The eldest daughter, a bright, beautiful being, became insane after he had fallen, and never recovered her reason, her anguished memory dwelling on the event. Their education now was under his frequent supervision; their course of reading was indicated, and their themes corrected. Every source of usefulness and virtuous pleasure he would cultivate with severer studies—music; (he sang a little)—the graces and the arts; with his younger boys he played marbles and flew kites, making merry pastime. Nothing could be more cheering than his commendations—nothing more gentle than the tender tone of his reproofs. His infrequent admonitions—how earnest, how warm, how delicate; for in appealing to the reason he never forgot the heart. How fondly did he cherish early promise! His encouragements—how hopeful, how strenuous. "Perseverando"—"Perseverando," the motto of the first emission by the Continental Congress, were words often on his lips. Sometimes he would take up the classics. With what emphasis and fervor did he read of battles! When translating the commentaries of Cæsar, it would seem as though Cæsar were present; for as much as any man that ever lived, he had a soldier's temperament. It told itself in

little things: during the erection of his rural dwelling, he caused a tent to be pitched, and camp-stools to be placed under the shading trees. He measured distances, as though marking the frontage of a camp; and then, as he walked along, his step seemed to fall naturally into the cadenced pace of practiced drill. It was his delight in his hours of relaxation to return to scenes and incidents of his early life, when fighting for this country, and praying for its protection. "I found him," a friend relates, "on one occasion with Polybius in his hand. He was reading a description of a mob; and after he had arisen, full of the subject, as he walked to and fro along the apartment, he drew an eloquent comparative picture of an ancient and modern mob." Indeed, throughout all his life, the ancient classics were his favorite reading; for there he found topics most interesting to his mind portrayed with unrivalled genius. Government had been the great business of his life, and was still a chief subject of his thoughts. He felt that the science of political philosophy was incomplete; and it was his purpose to test the lessons of history by his own experience, and to seek and to establish some great results from his inductions which might be useful to mankind. A distinguished orator, who had known him long and intimately, addressing the people after his decease, remarked: "Though he was compelled to abandon public life, never, no, never, for a moment, did he abandon the public service. He never lost sight of your interests. I declare to you, before that God, in whose presence we are now so especially assembled, that in his most private and confidential conversations, the single objects of discussion and consideration were your freedom and your happiness."

Chancellor Kent, with his accustomed elegance, relates: "In April, eighteen hundred four, I held the Cir-

suit Court in the city of New York; and the most interesting interview which I ever had with General Hamilton was at his country-seat on Harlem Heights, during the course of that month. He took me out to dine with him, and I was detained at his house the next day. We were assailed by a violent easterly storm the night I was there, and the house, standing on high ground, was very much exposed to the fury of the winds, as they swept over the island from the 'vex'd Atlantic.' The solicitude of General Hamilton for my comfort, and his attention and kindness, quite surprised and affected me. He visited me after I had retired to my chamber, to see that I was sufficiently attended to. In a memorandum which I made a day or two after that visit, and which is now before me, I state in allusion to it, that 'he never appeared before so friendly and amiable. I was alone, and he treated me with a minute attention that I did not suppose he knew how to bestow. His manners were delicate and chaste; and he appeared in his domestic state the plain, modest, and affectionate Father and Husband.' Gouverneur Morris was to have dined with us; but he sent an apology stating that 'the Jacobin winds had prevented him.' We were consequently left to ourselves during the better part of a day, and the conversation led to a more serious train of reflections on his part than I had ever before known him to indulge. His mind had a cast unusually melancholy. The pending election exceedingly disturbed him; and he viewed the temper, disposition, and passions of the times as portentous of evil, and favorable to the sway of artful and ambitious demagogues. His wise reflections, his sobered views, his anxiety, his gentleness, his goodness, his Christian temper, all contributed to render my solitary visit inexpressibly interesting. He at that time revealed to me a plan he had in contemplation for a

full investigation of the history and science of civil government, and the practical results of the various modifications of it upon the freedom and happiness of mankind. He wished to have the subject treated in reference to past experience, and upon the principles of Lord Bacon's inductive philosophy. His object was to see what safe and salutary conclusions might be drawn from an historical examination of the effects of the various institutions heretofore existing, upon the freedom, the morals, the prosperity, the intelligence, the jurisprudence, and the happiness of the people. Six or eight gentlemen were to be united with him in the work, according to his arrangement, and each of them was to take his appropriate part, and to produce a volume." * * * "I recollected that he proposed to assign the subject of ecclesiastical history to the Rev. Doctor Mason, and he was pleased to suggest that he wished me to accept a share of the duty. The conclusions to be drawn from the historical reviews, he intended to reserve for his own task; and this is the imperfect outline of the scheme which had then occupied his thoughts. I heard no more of it afterwards, for the business of the Court occupied all our attention; and after the May term of that year I saw him no more.

"I have very little doubt that if General Hamilton had lived twenty years longer, he would have rivalled Socrates or Bacon, or any other of the sages of ancient or modern times, in researches after truth and in benevolence to mankind. The active and profound statesman, the learned and eloquent lawyer, would probably have disappeared in a great degree before the character of the sage philosopher, instructing mankind by his wisdom, and elevating his country by his example."

The deeper the forebodings with which he looked at the future of this country, the fonder the interest he

cherished in his tranquil rural abode. Every moment he could spare from his professional engagements was spent there, communing with his own varying emotions, or collecting new sources of reflection in a library, partly the bequest of a justly-valued friend,* or in the sweet cares of domestic life, and the frequent hospitalities his position in society demanded of him. His pleasure grounds had begun to assume the aspect he desired. To reciprocate the attentions of his friends in a manner which, though novel here, he believed would most gratify, he gave, in the season of flowers and early fruits, a *fête champêtre.* All that could please the modest taste of those simple days of wise frugality, was present. At distant points in the several copses were heard by sauntering groups the sounds of the horn and the clarionet, while his mansion was joyous with dances and repasts. On one of the piazzas were beheld some of his earliest, nearest friends, tracing the distant outlines of the variegated landscape of hill and dale, ocean and rivers; Hamilton standing by, chatting with Colonels Fish and Troup. Never was the fascination of his manner more remarked; gay or grave, as was the chanced topic, like the light and shade of a fine painting. Never did he exhibit more the sage softened into the man of society. Eloquent feeling, sportive genius, graceful narrative, all spoke the charms of a generous, rich, and highly-cultivated nature. Even at this time, amid the brilliant circle, he brought forward the son of a deceased early comrade, commended him to the attention of an influential friend, then took him aside and conferred with him as to his plans for the future. This was one of the last sunny days of Hamilton's short life.

Although the recent vote of New York had shown

* William Constable, an aide of Lafayette.

how deep the canker of disappointed ambition had eaten into the Federal party, it promised Burr little real advantage. Still there was ground of hope in the excesses to which that ambition was inclined to lead, and in the dissensions of his local adversaries. The combination of the Clintonians and the Livingstons in the election of Lewis, he knew, was a sacrifice of feeling to a great present necessity. In their competition for office there was a mutual antagonism; and in the sources from which each drew its influence, there was cause of mutual dislike. The party of Clinton was near to the Democratic sentiment. It was, they claimed, the party of the people —the old party—which had arrayed itself against the dangers of the Federal Constitution, and its Federal supporters, from the outset, and had been in frequent conflict with the Livingstons, while they were Federalists. It had been built on the rock of Democracy. The Livingstons, they felt, were but converts, not of too sure a faith, and admitted at a late hour into the ranks of the true patriots. Nor had they been slow or coy in the acceptance of rewards. In proof, a list of the many offices of which they were incumbents was held up to the public gaze. "True it is, the Clintonians have united with you in opposition to Hamilton; but how different the motive and the feeling! While opposed to the principles and system of the statesman, we have done due honor to the man. In you the feeling has been a jealous, never-sleeping, personal rivalry." At these scoffs and taunts, that large portion of the family which, under the lead of Chancellor Livingston, had gone over in a body to the Democracy, were the more enraged, because policy imposed a present silence. They must wait a day of retaliation, when the higher aspirations of Clinton should be subjected to the test of public favor.

While Jefferson rejoiced in dissensions which ensured the supremacy of the South, the angered Federalists of Connecticut pointed to these feuds, invoking her people to see in the ruling party of New York little else than a scramble of two leading families for office. Such was their Democracy! Their prostration must follow! Burr, while he saw in the united efforts against him of these two discordant factions, a cause of increased hostility to both, saw their success marked with every circumstance which predicted and ensured future, more violent, and fatal broils. He might rise through the chasm these broils would make; but this could only be accomplished by a complete rally and command of the Federalists—a rally to a purpose he had been led to believe would not be relinquished.

For legitimate power he could no longer hope. At the third election of President, Burr had received but a single vote from a Southern State, South Carolina,—where a connection had influence. At the fourth and last election, the votes given to him by the Southern States, were the reluctant votes of a compelled expediency. The recent unanimous ignoring of him by the National Democratic caucus at Washington was not a mere passing by. It was a public proscription by Jefferson and by his numerous followers. The "Aurora," their favored press, denounced him as "an apostate to his party, his cause, his friends, and himself;" and Jefferson "declared, that he did not consider 'the little band' as forming a portion of the genuine Republicans."*

To an election to the Presidency of the United States, Burr therefore could not look. It was by a severance of these United States or forced or voluntary, that he could alone hope for that power with which he would be satis-

* Connecticut Courant, May 2, 1804.

fied. Irregular ambition, like every other irregular appetite, is apt to reason rashly. On the Democracy of some of the Eastern States he may have counted a little; for, there, some of his ancestors had been interred, and there resided connections who might serve him. In New Jersey also he had a small interest. But it was on the bitter alienations of many of the Federalists of New England from the Southern ruling politicians, and their despairing reaches, that Burr could only found his wanton hopes. Although the election in New York had resulted adversely, the excitement in parts of New England seemed to increase, all pointing to the hated supremacy of the South. "The pride of Virginia," it was declared in Connecticut, "will keep you in an eternal turmoil or in a *subjection* more degrading than that of hewers of wood and drawers of water."*

Four days after, the Legislature of that State rejected Hamilton's proposed amendment to the Constitution by a majority of two to one, declaring, "that it would establish the dominion of the large over the small States." Nor was Massachusetts content to be silent. Her dissatisfaction spoke at this time in the essays of "The New Englandman." "Are we," it was asked, "are we to submit to the guidance and the tyranny of the South? Are the States from the Chesapeake to the river St. Croix to be only the satellites of Virginia? Who fought the battles of Independence? Who freed Virginia and the Carolinas from the British troops, when aided by their slaves?—The men of the North—the now destined vassals of the South! But I will not despair.—The purchase of Louisiana at the expense of fifteen millions of dollars for the augmentation of the Southern interest must finally con-

* Connecticut Courant—"The New Englander."

vince the States north of the Chesapeake, that they must unite in the common Northern interest.—Let therefore the disinterested among our Federal and Democratic Republicans lay aside their fatal dissensions which serve to no purpose, but to the purpose of their enemies. We shall then be able to fix a just balance of power in the United States." The three-fifths provision of the Constitution was pronounced "a mockery of representation;" and it was asked, "Why should their slaves be represented, if denied the right of suffrage, in preference to our horses and oxen?" This feeling was shown by a motion, soon after made in the Legislature of Massachusetts, for an amendment of the Constitution of the United States, providing that the Representatives in Congress be apportioned among the several States according to the number of *free* inhabitants." A week after, articles appeared in Connecticut favorable to Burr. "Had the Constitution remained as it was made, Col. Burr," they declared, "would undoubtedly have been one of the next candidates for the Presidency, and the Federalists would probably have voted for him."* A week later, "a division of the States" was spoken of, as an event that was "ensured."

These rash, exciting speculations, mingled with the pointings to Burr, might have kept up the aspirations of his dizzy ambition. But to these aspirations, there was one, and it was an insuperable barrier. Hamilton was that barrier. In the meeting of the Federalists at Albany prior to the recent election, he had, it is seen, pointed to the danger of a "dismemberment" of the Union, and to Burr, as the probable instrument of a conspiracy against the integrity of the United States. Although his want of

* Connecticut Courant, June 20, 1804.

confidence in Lewis had kept Hamilton at a distance from the election, yet he knew that his words of alarm had fallen on patriotic hearts; and the result of the election had shown their influence. The effect, as Burr charged, was "present and palpable." While Burr saw in him a chief cause of his past defeats, he saw in him the inevitable obstacle to all his future hopes of power. The very abstinence of Hamilton from the election had elevated him in the estimation of the worthy men who knew its cause; and this elevation cast a deeper shade upon his defeated, mortified antagonist. A recent voice in Europe had recently proclaimed Hamilton's greatness;* and, while Burr seemed to behold him, with the "Constitution" in his hand, and the word "Union" on his eloquent lips, he felt in the identification of Hamilton with the Constitution and with the Union, the embodied object of his concentrated hate. In Hamilton's rallying power and solid position he saw, as it were, a pillar of State standing in his path. All was perplexity. In vain did a conceited, busy, heartless prattler, the companion, and probably, the corrupt instrument of his vicious pleasures, strive to amuse him with the light, low gossip of the town. In vain were rehearsed by him the follies and the squabbles of his successful Democratic adversaries. In vain did his not less scrupulous, but graver, more thinking confederates hold up to his view, a vague, indefinite future. His pleasures seemed for a time to cloy upon him. He had been repulsed by Jefferson. He was rejected, through Hamilton, by New York. Burr was now seldom seen, and when

* At a public dinner given by the French Government to Robert R. Livingston, in commemoration of the purchase of Louisiana, Talleyrand, then prime minister of Buonaparte, gave as a toast, "Alexander Hamilton—the first man of America."—It was omitted among the toasts published in this country.

seen, was silent. The air of indifference it was his habit to affect, even towards his nearest friends, was no longer assumed. The conviction of his disappointed ambition, he could not conceal. Nor was this the whole. His credit was near its end. Penury was before him. In the midst of his spendthrift habits and luxurious tastes, his importunate creditors were pressing upon him. His dejection was dark, and deep, and despairing. What to do he was at a loss. What he did do—what occurred, looking at the past, and that which was near by, is hardly credible. Hamilton was at his country-seat; and soon after the early summer sun had arisen, was awakened by a violent ringing at the bell of his front door. He arose, descended, and found Burr at the door. With great agitation, he related circumstances which rendered immediate pecuniary assistance absolutely necessary to him. On returning to his bed, Hamilton relieved the anxiety of his wife, caused by this early call. "Who do you think was at the door—Colonel Burr.—He came to ask my assistance?"

Hamilton immediately endeavored to raise the desired sum, which was not without difficulty. While thus exerting himself, he "received a note from Colonel Burr, telling him to take no further trouble about it, couched in language which he interpreted as intending in despair to put an end to himself. General Hamilton immediately applied to Church and other of his friends, and raised the money for him."*

* This occurrence was mentioned by Mrs. Hamilton to the author; and was, by William Coleman, editor of the Evening Post, to whom Hamilton related it, communicated to General Morton, who states it in a letter to the author, dated June 26th, 1836. "Coleman," General Morton observes, "related it to me with great seriousness, a short time after the occurrence; and I was further led to believe it from the circumstance of General Hamilton's calling upon me about that time in haste, and asking if I could conveniently spare

If this application to Hamilton for such aid, by Burr, is just matter of surprise, not less remarkable is the noble generosity of Hamilton in affording it to a man by whose hand he had stated he expected to fall. That the fatal aim would not long be stayed, might have been inferred by the disappointment which sat on the scowling faces of the profligate partizans of the Vice-President. Their bold and reckless menaces were heard no more. His subservient press touched on no political topic. Whatever was felt, whatever was to be done, was shrouded in murky silence and fearful mystery. To the fierce political storm an ominous calm had succeeded. This could not last. A secret dinner was, at length, given by Burr to a select party of his most devoted conspirators. At this festival the course to be pursued was discussed. By one it was proposed that Burr should challenge Dewitt Clinton. To this he was not inclined, nor was the motive strong; and at last with one consent the course to be pursued was resolved.* The deep tragedy Burr meditated for his country was to be commenced by a sacrifice to his revenge and to his ambition. Hamilton must be the victim. Burr proceeded to prepare himself for a meeting. To his residence at "Richmond Hill" a garden was attached. In this garden, targets were placed at convenient distances, and hours of each day after day, of several weeks, were spent by Burr, with a person at his

him a thousand or two dollars for a particular emergency." The total sum raised, is stated by General Morton, to have been ten thousand dollars.

* It was so stated by Dr. Douglas, a friend of Burr.—General Morton, who, though a Federalist, was the intimate personal friend of Burr until the death of Hamilton, but after it, would not know him, also relates, "The party was discomfited and must be raised up at any and every sacrifice. The course pursued was, I was then informed and verily believe, the result of a caucus of pretended friends of Colonel Burr, who expected and yet hoped office and preferment for themselves, on his elevation."

side loading his pistols as fast as they were discharged, firing at these targets in quick succession. Meanwhile, that something was meditated was inferred from the changed manner of his confederates, from their eager whispers and hurried greetings, as they passed through the busy crowd or gathered in small groups, at the corners of the streets, but what the fell purpose was, conjecture could not fathom. The secret was well kept. To make a requisition upon Hamilton that he could not comply with, was the course resolved upon. William P. Van Ness, the author of "Aristides," was selected as the bearer to Hamilton of the adversary note.

The pretext was an electioneering letter written in these words from Albany on the *twelfth* of *April* preceding; and published soon after its date:* "Gen. Hamilton, the patroon's brother-in law, it is said, has come out decidedly against Burr. Indeed when he was here, he spoke of him as a dangerous man, and who ought not to be trusted." On seeing this, General Schuyler wrote a public letter, in which he stated, "I think it proper to mention that, while Chancellor Lansing was considered as a candidate, General Hamilton was in favor of supporting him;—but, that after the nomination of Chief Justice Lewis, he declared to me that he would not interfere." The author of the letter replied, reasserting his previous statement, and adding, "I could detail to you a still more despicable opinion which General Hamilton has expressed of Mr. Burr."

In pursuance of this preconcerted determination, William P. Van Ness was sent for by Burr on the seventeenth of June. Van Ness relates, that Burr alleged, that it had *of late*, been *frequently* stated to him that General

* By Charles D. Cooper, son-in-law of Governor Taylor—published with the residue of the correspondence on the 24th of April in the Albany Register.

Hamilton had at *different times*, and on various occasions, used language and expressed opinions highly injurious to his reputation; that he had for *sometime* felt the *necessity* of calling on General Hamilton for an explanation of his conduct, but that the statements which had been made to him did not appear sufficiently authentic to *justify* the measure; that a newspaper had, however, been recently put into his hands in which he perceived a letter, containing something which he thought demanded immediate investigation. Urged by these circumstances and justified by the evident opinion of his friends, he had determined to write General Hamilton a note upon the subject which he requested him to deliver. This note was in these words:

"New York, June 18, 1804.—Sir: I send for your perusal a letter signed Charles D. Cooper, which, though apparently published some time ago, has but very recently come to my knowledge. Mr. Van Ness, who does me the favor to deliver this, will point out to you that clause of the letter to which I particularly request your attention.

"You must perceive, Sir, the necessity of a prompt, unqualified acknowledgment or denial of the use of any expression which would warrant the assertions of Dr. Cooper.

"I have the honor to be, your obedient servant,

"A. BURR.

"General Hamilton."

On receiving this letter, General Hamilton mentioned, that as a variety of engagements demanded his attention during the whole of that and of the next day, he would on the twentieth instant furnish an answer.

The nature of the demand and the terms in which it was made could leave no doubt as to the object in view. After consulting a very moderate and judicious friend, who confirmed Hamilton's opinion, that the disavowal required of him in such a form was out of his power, he returned the following reply:

"NEW YORK, June 20, 1804.—SIR: I have maturely reflected on the subject of your letter of the eighteenth inst., and the more I have reflected the more I have become convinced that I could not, without manifest impropriety, make the avowal or disavowal which you seem to think necessary. The clause pointed out by Mr. Van Ness is in these terms: 'I could detail to you a *still more despicable* opinion which General Hamilton *has expressed* of Mr. Burr.' To endeavor to discover the meaning of this declaration, I was obliged to seek in the antecedent part of this letter for the opinion to which it referred, as having been already disclosed. I found it in these words: 'General Hamilton and Judge Kent have declared in *substance* that they looked upon Mr. Burr to be a *dangerous man*, and one *who ought not to be trusted with the reins of government.*'

"The language of Dr. Cooper plainly implies, that *he* considered this opinion of you, which he attributes to me, as a *despicable* one: but he affirms that I have expressed some other, *more despicable*, without however mentioning to whom, when, or where. 'Tis evident that the phrase 'still more despicable' admits of infinite shades, from very light to very dark. How am I to judge of the degree intended? or how shall I annex any precise idea to language so indefinite?

"Between gentlemen, despicable and *more despicable* are not worth the pains of distinction: when therefore you do not interrogate me, as to the opinion which is specifically ascribed to me, I must conclude, that you view it as within the limits to which the animadversions of political opponents upon each other may justifiably extend; and consequently as not warranting the idea of it which Doctor Cooper appears to entertain. If so, what precise inference could you draw, as a guide for your conduct, were I to acknowledge that I had expressed an opinion of you *still more despicable* than the one which is particularized? How could you be sure that even this opinion had exceeded the bounds which you yourself deem admissible between political opponents?

"But I forbear further comment on the embarrassment to which the requisition you have made naturally leads. The occasion forbids a more ample illustration, though nothing could be more easy than to pursue it.

"Repeating, that I cannot reconcile it with propriety to make the acknowledgment or denial you desire, I will add, that I deem it inadmissible, on principle, to consent to be interrogated as to the justness of the *inferences* which may be drawn by others from whatever I may

have said of a political opponent in the course of fifteen years' competition. If there were no other objection to it, this is sufficient, that it would tend to expose my sincerity and delicacy to injurious imputations from every person who may at any time have conceived the *import* of my expressions, differently from what I may then have intended or may afterwards recollect. I stand ready to avow or disavow promptly and explicitly any precise or definite opinion which I may be charged with having declared of any gentleman. More than this cannot fitly be expected from me; and, especially, it cannot be reasonably expected that I shall enter into an explanation upon a basis so vague as that which you have adopted. I trust on more reflection you will see the matter in the same light with me. If not, I can only regret the circumstance and must abide the consequences.

"The publication of Doctor Cooper was never seen by me till after the receipt of your letter.

"I have the honor to be, &c.,

"A. HAMILTON.

"Col. Burr."

Burr answered the following day:

"New York, June 21, 1804.—Sir: Your letter of the 20th inst., has been this day received. Having considered it attentively, I regret to find in it nothing of that sincerity and delicacy which you profess to value.

"*Political* opposition can never absolve gentlemen from the necessity of a rigid adherence to the laws of honor and the rules of decorum. I neither claim such privilege nor indulge it in others.

"The common sense of mankind affixes to the epithet adopted by Dr. Cooper, the idea of dishonor. It has been publicly applied to me under the sanction of your name. The question is not, whether he has understood the meaning of the word, or has used it according to syntax and with grammatical accuracy: but whether you have authorized this application, either directly or by uttering expressions or opinions derogatory to my honor. The time 'when' is in your own knowledge, but no way material to me, as the calumny has now first been disclosed, so as to become the subject of my notice, and as the effect is present and palpable.*

* This phrase can only refer to his defeat in the election, and confirmed the belief that it was the cause of this procedure.

"Your letter has furnished me with new reasons for requiring a definite reply.

"I have the honor to be, sir, your obedient,

"A. BURR.

"GENERAL HAMILTON."

The next day, Hamilton called upon Colonel Pendleton, who had been an aid of General Greene, and communicated to him the preceding correspondence. He informed him that in the conversation with Van Ness, at the time of receiving the last letter, he told him he considered that letter as rude and offensive, and that it was not possible for him to give it any other answer than that Colonel Burr must take such steps as he might think proper. He said further, that Van Ness requested him to take time to deliberate and then return an answer, when he might possibly entertain a different opinion, and that he would call upon him to receive it;—that his reply to Van Ness was, that he did not perceive it possible for him to give any other answer than that he had mentioned, unless Colonel Burr would take back his last letter, and write one which would admit of a different reply. He then gave Pendleton a letter to be delivered to Van Ness when he should call, and repaired to his country residence.

The next day, being Sunday, Hamilton received, while there, this note:

"June 23, 1804.—SIR: In the afternoon of yesterday, I reported to Col. Burr the result of my last interview with you and appointed the evening to receive his further instructions. Some private engagements, however, prevented me from calling on him till this morning. On my return to the city, I found upon inquiry, both at your office and house, that you had returned to your residence in the country.

"Lest an interview there might be less agreeable to you than elsewhere, I have taken the liberty of addressing you this note to inquire

when and where it will be most convenient to you to receive a communication.

"Your most obedient and very humble servant,

"W. P. VAN NESS.

"General Hamilton."

Hamilton immediately answered, if the communication was pressing, he would receive it there that day, if not, he would be at his house in town the next day. In the interval, during his absence from the city, several conversations passed between Pendleton and Van Ness in which the former endeavored to illustrate and enforce the propriety of the ground Hamilton had taken. He mentioned to Van Ness as the result, if Colonel Burr would write a letter requesting to know in substance whether in the conversation to which Cooper alluded, any particular instance of dishonorable conduct was imputed to Colonel Burr, or whether there was any impeachment of his private character, General Hamilton would declare to the best of his recollection what passed in that conversation. Pendleton then read the following paper containing the substance of what Hamilton would say:

"General Hamilton says, he cannot imagine to what Dr. Cooper may have alluded, unless it were to a conversation at Mr. Taylor's in Albany, last winter, (at which he and General Hamilton were present.) General Hamilton cannot recollect distinctly the particulars of that conversation, so as to undertake to repeat them, without running the risk of varying or omitting what might be deemed important circumstances.

"The expressions are entirely forgotten, and the specific ideas imperfectly remembered; but to the best of his recollection it consisted of comments on the political principles and views of Colonel Burr, and the results

that might be expected from them in the event of his election as Governor, without reference to any particular instance of past conduct or private character."

Colonel Pendleton then handed to Van Ness this letter unsealed, which, though bearing date the twenty-second of June, he had retained in his possession until the twenty-fifth:

"NEW YORK, June 22, 1804.—SIR: Your first letter, in a style too peremptory, made a demand, in my opinion, unprecedented and unwarrantable. My answer, pointing out the embarrassment, gave you an opportunity to take a less exceptionable course. You have not chosen to do it; but by your last letter received this day, containing expressions *indecorous* and improper, you have increased the difficulties to explanation intrinsically incident to the nature of your application.

"If by a 'definite reply,' you mean the direct avowal or disavowal required in your first letter, I have no other answer to give, than that which has already been given. If you mean any thing different, admitting of greater latitude, it is requisite you should explain.

"I have the honor to be, sir, your obedient servant,

"ALEX. HAMILTON.

"AARON BURR, ESQ."

After its delivery, Van Ness, at another interview, desired Pendleton to give him in writing the substance of what he had proposed on the part of General Hamilton, which was given in these words:

"In answer to a letter properly adapted to obtain from General Hamilton a declaration whether he had charged Colonel Burr with any particular instance of dishonorable conduct, or had impeached his private character, either in the conversation alluded to by Dr. Cooper, or in any other particular instance, to be specified; he would be able to answer consistently with his honor, and the truth, in substance, that the conversation to which Dr. Cooper alluded turned wholly on political topics, and

did not attribute to Colonel Burr any instance of dishonorable conduct, nor relate to his private character; and in relation to any other language or conversation of General Hamilton which Colonel Burr will specify, a prompt and frank avowal or denial will be given."

The next day this note was addressed by Van Ness to Pendleton:

"SIR: The letter which you yesterday delivered me, and your subsequent communication, in Colonel Burr's opinion, evince no disposition on the part of General Hamilton to come to a satisfactory accommodation. The injury complained of and the reparation expected, are so definitely expressed in Colonel Burr's letter of the 21st instant, that there is not perceived a necessity for further explanation on his part. The difficulty that would result from confining the inquiry to any particular times and occasions must be manifest. The denial of a specified conversation only, would leave strong implications that on other occasions improper language had been used. When and where injurious opinions and expressions have been uttered by General Hamilton must be best known to him, and of him only will Colonel Burr inquire. No denial or declaration will be satisfactory, unless it be general, so as wholly to exclude the idea that rumors derogatory to Colonel Burr's honor have originated with General Hamilton, or have been fairly inferred from any thing he has said. A definite reply to a requisition of this nature was demanded by Colonel Burr's letter of the twenty-first instant. This being refused, invites the alternative alluded to in General Hamilton's letter of the 20th.

"It was required by the position in which the controversy was placed by General Hamilton on Friday last, and I was immediately furnished with a communication demanding a personal interview. The necessity of this measure has not, in the opinion of Colonel Burr, been diminished by the General's last letter, or any communication which has since been received. I am consequently again instructed to deliver you a message, as soon as it may be convenient for you to receive it. I beg, therefore, you will be so good as to inform me at what hour I can have the pleasure of seeing you.

"Your most obedient and very humble servant,

"W. P. VAN NESS.

"NATHANIEL PENDLETON, Esq., *June* 26."

This reply was given on the same day by Colonel Pendleton:

"June 26, 1804.—SIR: I have communicated the letter which you did me the honour to write to me of this date, to General Hamilton. The expectations now disclosed on the part of Colonel Burr appear to him to have greatly extended the original ground of inquiry, and instead of presenting a particular and definite case for explanation, seem to aim at nothing less than an inquisition into his most confidential conversations, as well as others, through the whole period of his acquaintance with Colonel Burr.

"While he was prepared to meet the particular case fairly and fully, he thinks it inadmissible that he should be expected to answer at large as to every thing that he may possibly have said, in relation to the character of Colonel Burr, at any time, or upon any occasion. Though he is not conscious that any charges which are in circulation to the prejudice of Colonel Burr have originated with him, except one which may have been so considered, and which has long since been fully explained between Colonel Burr and himself, yet he cannot consent to be questioned generally as to any rumours which may be afloat derogatory to the character of Colonel Burr, without specification of the several rumours, many of them probably unknown to him:

"He does not, however, mean to authorize any conclusion as to the real nature of his conduct in relation to Colonel Burr, by his declining so loose and vague a basis of explanation, and he disavows an unwillingness to come to a satisfactory, provided it be an honorable, accommodation.

"His objection is, the very indefinite ground which Colonel Burr has assumed, in which he is sorry to be able to discern nothing short of premeditated hostility.

"Presuming, therefore, that it will be adhered to, he has instructed me to receive the message which you have it in charge to deliver.

"For this purpose I shall be at home and at your command tomorrow morning, from eight to ten o'clock.

"I have the honor to be, respectfully, your obedient servant,

"NATHANIEL PENDLETON.*

"W. P. VAN NESS, ESQ."

* 'Tis not unworthy of notice, that on the very day of this communication, Hamilton, who had been consulted by a poor, illiterate man, in the humblest

Van Ness answered the following day:

"Sir:—The letter which I had the honour to receive from you, under date of yesterday, states among other things, that in General Hamilton's opinion, Col. Burr has taken a very indefinite ground, in which he evinces nothing short of predetermined hostility, and that General Hamilton thinks it inadmissible that the inquiry should extend to his confidential as well as other conversations. In this Col. Burr can only reply, that secret whispers, traducing his fame and impeaching his honor, are, at least equally injurious with slanders publicly uttered: that Gen. Hamilton had, at no time and in no place, a right to use any such injurious expressions, and that the partial negative he is disposed to give with the reservations he wishes to make, are proofs that he has done the injury specified.

"Col. Burr's request was, in the first instance, proposed in a form the most simple, in order that General Hamilton might give to the affair that course to which he might be induced by his temper and his knowledge of facts. Col. Burr trusted with confidence, that from the frankness of a soldier and the candour of a gentleman, he might expect an ingenuous declaration. That if, as he had reason to believe, General Hamilton had used expressions derogatory to his honor, he would have had the magnanimity to retract them; and that if, from his language, injurious inferences had been improperly drawn, he would have perceived the propriety of correcting errors, which might thus have been widely diffused. With these impressions, Col. Burr was greatly surprised at receiving a letter which he considered as evasive, and which in manner he deemed not altogether decorous. In one expectation however he was not wholly deceived, for the close of General Hamilton's letter contained an intimation that if Col. Burr should dislike his refusal to acknowledge or deny, he was ready to meet the consequences. This Col. Burr deemed a sort of defiance, and would

walks of life, wrote this note: "Dear Sir: I should like to see you on the subject of a poor fellow, Peter Drinker, who says you have been employed for him, and appears unfortunate, which is his title to my attention. Yours truly, A. H., June 26, 1804. P. G. Stuyvesant, Esq."—This much-respected gentleman relates: "I reproved the man for the freedom in which he had indulged, and undertook to convince him of the impropriety of troubling General Hamilton with his concerns. His reply was, 'Oh no, sir; he treated me very kindly.'"

have felt justified in making it the basis of an immediate message. But as the communication contained something concerning the indefiniteness of the request: as he believed it rather the offspring of false pride than of reflection; and as he felt the utmost reluctance to proceed to extremities while any other hope remained, his request was repeated in terms more explicit. The replies and propositions on the part of Gen. Hamilton have, in Col. Burr's opinion, been constantly in substance the same.

"Col. Burr disavows all motives of premeditated hostility, a charge by which he thinks insult added to injury. He feels as a gentleman should feel when his honor is impeached or assailed; and without sensations of hostility or wishes of revenge, he is determined to vindicate that honour at such hazard as the nature of the case demands.

"The length to which this correspondence has extended, only tending to prove that the satisfactory redress, earnestly desired, cannot be obtained, he deems it useless to offer any proposition, except the simple message which I shall now have the honour to deliver.

"I have the honour to be with great respect, your obedient and very humble servant,

"W. P. VAN NESS.

"*Wednesday morning, June* 27, 1804."

With this answer a challenge was delivered. The letter of Van Ness was laid before Hamilton the same evening; and, after a short conversation, Pendleton was requested to call upon him the next morning to hold a further conference.

Hamilton at this conference said that he had not understood whether the message and answer were definitive, or whether another meeting was to be had for that purpose.

Under the latter impression, and, as the last letter contained matter that naturally led to animadversion, he gave Pendleton a paper of remarks to be communicated to Van Ness, if the state of the affair rendered it proper.

"*Remarks on the letter of June* 27, 1804.—Whether the observations on this letter are designed merely to justify

the result which is indicated in the close of the letter, or may be intended to give an opening for rendering any thing explicit which may have been deemed vague heretofore, can only be judged of by the sequel. At any rate it appears to me necessary not to be misunderstood. Mr. Pendleton is therefore authorized to say, that in the course of the present discussion, written or verbal, there has been no intention to evade, defy, or insult, but a sincere disposition to avoid extremities, if it could be done with propriety. With this view, Gen. Hamilton has been ready to enter into a frank and free explanation on any and every object of a specific nature: but not to answer a general and abstract inquiry embracing a period too long for any accurate recollection, and exposing him to unpleasant criticisms from, or unpleasant discussions with, any and every person, who may have understood him in an unfavorable sense. This (admitting that he could answer in a manner the most satisfactory to Col. Burr,) he should deem inadmissible in principle and precedent, and humiliating in practice. To this therefore he can never submit: Frequent allusion has been made to slanders said to be in circulation. Whether they are openly or in whispers, they have a form and shape and might be specified.

"If the alternative alluded to in the close of the letter is definitively tendered, it must be accepted: the time, place, and manner, to be afterwards regulated. I should not think it right in the midst of a Circuit Court to withdraw my services from those who may have confided important interests to me, and expose them to the embarrassment of seeking other Counsel, who may not have time to be sufficiently instructed in their cases. I shall also want a little time to make some arrangements respecting my own affairs."

In an interview of the same day, after explaining the causes which had induced General Hamilton to suppose that the state of the affair did not render it improper, Pendleton offered this paper to Van Ness. He declined receiving it, alleging that he considered the correspondence as being closed by the acceptance of the message he had delivered. Pendleton then stated to Van Ness the reasons given in these "Remarks" by General Hamilton for postponing the meeting until the close of the Circuit; and as that was uncertain, engaged to apprise him when the meeting would be convenient. This proposal could not be rejected.

During the Circuit, Hamilton devoted himself assiduously to the causes in which he was engaged, and contemplating the probable issue of the affair drew up a document to be opened in that event.

"On my expected interview with Col. Burr, I think it proper to make some remarks explanatory of my conduct, motives, and views.

"I was certainly desirous of avoiding this interview for the most cogent reasons:

"1. My religious and moral principles are strongly opposed to the practice of duelling, and it would ever give me pain to be obliged to shed the blood of a fellow creature in a private combat forbidden by the laws.

"2. My wife and children are extremely dear to me, and my life is of the utmost importance to them, in various views.

"3. I feel a sense of obligation towards my creditors; who, in case of accident to me, by the forced sale of my property, may be in some degree sufferers. I did not think myself at liberty as a man of probity, lightly to expose them to this hazard.

"4. I am conscious of no *ill will* to Col. Burr, distinct

from political opposition, which, as I trust, has proceeded from pure and upright motives.

"Lastly, I shall hazard much and can possibly gain nothing by the issue of the interview.

"But it was, as I conceive, impossible for me to avoid it. There were *intrinsic* difficulties in the thing, and *artificial* embarrassments, from the manner of proceeding on the part of Col. Burr.

"*Intrinsic*, because it is not to be denied, that my animadversions on the political principles, character, and views of Col. Burr, have been extremely severe; and on different occasions, I, in common with many others, have made very unfavorable criticisms on particular instances of the private conduct of this gentleman.

"In proportion as these impressions were entertained with sincerity, and uttered with motives and for purposes which might appear to me commendable, would be the difficulty (until they could be removed by evidence of their being erroneous,) of explanation or apology. The disavowal required of me by Col. Burr, in a general and indefinite form, was out of my power, if it had really been proper for me to submit to be so questioned; but I was sincerely of opinion, that this could not be; and in this opinion, I was confirmed by that of a very moderate and judicious friend whom I consulted. Besides that, Col. Burr appeared to me to assume, in the first instance, a tone unnecessarily peremptory and menacing, and in the second, positively offensive. Yet I wished, as far as might be practicable, to leave a door open to accommodation. This, I think, will be inferred from the written communications made by me, and by my directions, and would be confirmed by the conversations between Mr. Van Ness and myself, which arose out of the subject.

"I am not sure, whether, under all the circumstances, I

did not go further in the attempt to accommodate, than a punctilious delicacy will justify. If so, I hope the motives I have stated will excuse me.

"It is not my design, by what I have said, to affix any odium on the conduct of Col. Burr, in this case. He doubtless has heard of animadversions of mine which bore very hard upon him; and it is probable that as usual they were accompanied with some falsehoods. He may have supposed himself under a necessity of acting as he has done. I hope the grounds of his proceeding have been such as ought to satisfy his own conscience.

"I trust, at the same time, that the world will do me the justice to believe, that I have not censured him on light grounds, nor from unworthy inducements. I certainly have had strong reasons for what I may have said, though it is possible, that in some particulars, I may have been influenced by misconstruction or misinformation. It is also my ardent wish, that I may have been more mistaken than I think I have been; and that he, by his future conduct, may show himself worthy of all confidence and esteem, and prove an ornament and blessing to the country. As well, because it is possible that I may have injured Col. Burr, however convinced myself that my opinions and declarations have been well founded, as from my general principles and temper in relation to similar affairs, I have resolved, if our interview is conducted in the usual manner, and it pleases God to give me the opportunity, to reserve and *throw away* my first fire, and I have *thoughts* even of *reserving* my second fire—and thus giving a double opportunity to Col. Burr to pause and to reflect. It is not, however, my intention to enter into any explanations on the ground. Apology from principle, I hope, rather than pride, is out of the question.

"To those who, with me, abhorring the practice of duel-

ling, may think that I ought on no account to have added to the number of bad examples, I answer, that my *relative* situation, as well in public as private, enforcing all the considerations which constitute what men of the world denominate honour, imposed on me, (as I thought,) a peculiar necessity not to decline the call. The ability to be in future useful, whether in resisting mischief or effecting good, in those crises of our public affairs which seem likely to happen, would probably be inseparable from a conformity with public prejudice, in this particular. A. H."

That the last of the reasons stated in this paper was the most cogent in determining the course which was taken, when the strength of Hamilton's impression that a great crisis in the affairs of this country was impending, can not be questioned. Every probability existed, during the conflict that was being waged in Europe, from the estimate which Buonaparte had formed of the Administration, from its subservience to France, and intense settled hostility towards Great Britain, that a war with that power would be the consequence. So disastrous a jeopardy of the immense interests of this nation Hamilton had by his counsels previously prevented, and might again prevent; or, should war come, he might lead its arms to victory, and thus he felt that his services might be useful "*in effecting* good."

But the consequences of a civil war more immediately pressed upon his mind. Of the existence of a project to dissolve the Union he had decisive evidence, and of Burr's privity to it. His long formed, fixed conviction, that Burr was a person, whose object was "to throw things into confusion that he may 'ride the storm and direct the whirlwind,'" is seen in his early communication to Washington.* His recent declaration to an Eastern Federalist

* Infra v. 50. Hamilton to Washington, August 18, 1792.

of leading influence that "Burr would never be contented until his head was encircled with a diadem,"—the reason assigned by him to the Federalists in their conference, for withholding their support from Burr as Governor, that "causes are leading to an opinion that a dismemberment of the Union is expedient, and that it would probably suit 'Burr's' views to promote this result, to be the chief of the Northern portion;"—the warm appeals to sectional feelings continued since the defeat of Burr in New York down to the very hour when Burr's hostile correspondence was opened with him; these all explain Hamilton's reluctance to expose his life, at a moment when he believed the Union was in danger—all explain his recent public avowal that "he would never again accept of any office whatever, either under the General or State Government, unless called upon in the event of a foreign or *civil war*," and all point directly to these as the "crises of our public affairs which seemed 'to him' likely to happen," when "his ability to be useful, whether in resisting mischief or effecting good would probably be inseparable from a conformity with public prejudice" in accepting this challenge. He has already been seen warning, in private, officers of the old army against this threatened danger, nor can it be doubted that he would have been heard, had the crisis, which the sacrifice of his life prevented, happened, as President of the Cincinnati invoking his fellow-soldiers of the Revolution, and as their recent commander-in-chief rallying the officers of the late disbanded army, to the rescue of the Constitution and the preservation of the Union.

This was the leading, commanding view, which, independent of all the other considerations, he felt imposed upon him "a peculiar necessity not to decline this call."

"Conscious of no ill-will" to Burr; "with moral and

religious principles strongly opposed to the practice of duelling;" unwilling "to add to the number of bad examples," he went quite as far in his attempt to accommodate as delicacy would permit. He did not seek, he did all that was possible in his situation, to avoid this issue, for he regarded it not as a private quarrel. Nor was it so. His quarrel was the quarrel of his Country. It was the last act in the great drama of his life.—It was the deliberate sacrifice of that life for his country's welfare—a sacrifice, which, by overwhelming his antagonist with the execrations of the American people, prevented a civil war, and saved from "dismemberment" this great Republic.*

While Hamilton was engaged in the closing duties of his life, Burr, as previously stated, was daily seen to continue to practice with his pistol at targets in his garden. It was while passing at this time his residence, after making a call of importance on his way to the Grange, that recalling to his recollection some untold incident, as his eye dwelt on the green, sunny parapet near it, the word "gratitude" escaped Hamilton's lips, and he then fell into a continued reverie.

On the fourth of July, Hamilton and Burr met at the anniversary dinner of the Cincinnati, Hamilton officiating as President-General of the Society; and, except that his manner was more than usually affectionate, with his accustomed cheerfulness. He was urged to sing, and he replied,—"Well—you shall have it." He sang once his

* In a spontaneous tribute "to the unsullied integrity, transcendent talent, and eminent services of this great man, as duly appreciated by all persons here," that distinguished person, Dewitt Clinton, then Mayor of New York, speaks of Hamilton's "zealous and honorable attachment to the UNION of these States, and of the *disorganizing schemes*, which there is too much reason to apprehend, *are in agitation* to destroy this palladium of our national safety, this guarantee of our National glory."

favorite song, "The Drum." Burr conversed little, did not mingle with the company, and, except when he spoke and put on his gracious smile, his countenance was that of a "disappointed, mortified man." The single thing which aroused him was the song of Hamilton. Sitting on his left, he raised his head, and placed himself in a posture of attention. Hamilton sang with his usual glee.*

On Saturday he repaired to the Grange; and well is remembered, the tone in which as he rode along he deplored to a friend the machinations that he feared. "If," he said, at the close of a deeply interesting conversation; "If this Union were to be broken, it would break my heart." On that day he had invited four guests to his house, Colonel Trumbull, one of the earliest aids of Washington, who he had learned was about to visit Boston, and his wife, Colonel Smith and his lady, the daughter of John Adams, perhaps thus to evince to the late President his desire to part with him in peace.

In the course of a simple repast, this incident is related to have occurred: "General," observed Smith, "do you still adhere to your notion not to have the birds killed on your place?" "Yes," Hamilton replied, "and I will protect them as long as I live." Smith had heard of the intended meeting. His countenance fell, and he was silent during the rest of the day. After dinner, when they were alone, Hamilton turned to Trumbull, and, looking at him with deep meaning, said: "You are going to

* Colonel Trumbull also states in his "Life, p. 244," "On the 4th of July, I dined with the Society of the Cincinnati, my old military comrades; and then met, among others, General Hamilton and Col. Burr. The singularity of their manner was observed by all, but few had any suspicion of the cause. Burr, contrary to his wont, was silent, gloomy, sour, while Hamilton entered with glee into all the gaiety of a convivial party, and even sang an old military song."

Boston. You will see the principal men there. Tell them from ME, as MY request, for God's sake, to cease these conversations and threatenings about a separation of the Union. It must hang together as long as it can be made to."

The next day, Sunday, before the heat of the day, he walked with his wife over all the pleasant scenes of his retreat. On his return to the house, his family being assembled, he read the morning service of the Episcopal church. The intervening hours till evening were spent in kind companionship; and at the close of the day, gathering around him his children under a near tree, he laid with them upon the grass until the stars shone down from the heavens.

Monday he returned to the city. After disposing of the more urgent of his clients, he drew up a statement of his affairs and prepared his will. At the moment he was executing it, a friend came in and related to him his fear of an intended fraud. Hamilton took him by the arm and said, "Let us walk past the counting-room of these people. Perhaps, on seeing us together, they may think it expedient to do you justice." The expedient succeeded.

The following day he wrote to Theodore Sedgwick, his friend of many years, who had been the channel of his most useful communications on the policy of the country; thus showing that, to the latest moment, his thoughts were upon that which had formed the leading topic of the Federalist—"the utility of the UNION to the political prosperity of the WHOLE American people."

"NEW YORK, July 10, 1804.—MY DEAR SIR: I have received two letters from you since we last saw each other—that of the latest date being the twenty-fourth of May.

"I have had on hand for some time a long letter to you, explaining my view of the course and tendency of our politics, and my intentions as to my own future conduct.

"But my plan embraced so large a range, that, owing to much avocation, some indifferent health, and a growing distaste for politics, the letter is still considerably short of being finished. I write this now to satisfy you that want of regard for you has not been the cause of my silence.

"I will here express but one sentiment, which is, that DISMEMBERMENT of our EMPIRE will be a clear sacrifice of great positive advantages, without any counterbalancing good; administering no relief to our real disease, which is DEMOCRACY; the poison of which, by a subdivision, will only be the more concentred in each part, and consequently the more virulent.

"King is on his way to Boston, where you may chance to see him, and hear from himself his sentiments. God bless you. A. H."

"The last thing he did in his office," it is related, "he did at my desk and by my side. Even the place seems sacred to my memory. General Hamilton came to my desk in the tranquil manner usual with him, and gave me a business paper with his instructions. I saw no change in his appearance." *

Thence after waiting upon his faithful friend, Oliver Wolcott, at the close of an entertainment given by him, he made his last visit. It was to Colonel Troup, the companion of his early years. "The whole tenor of his deportment manifested such composure and cheerfulness of mind, as to leave me," Troup relates, "without any

* Letter of Judah Hammond, a clerk in the office.

suspicion of the rencontre that was depending; his manner having an air of peculiar earnestness and solicitude." He then returned to his abode in the city, where he wrote this farewell to his wife:

"This letter, my dear Eliza, will not be delivered to you, unless I shall first have terminated my earthly career, to begin, as I humbly hope, from redeeming grace and divine mercy, a happy immortality.

"If it had been possible for me to have avoided the interview, my love for you and my precious children would have been alone a decisive motive. But it was not possible, without sacrifices which would have rendered me unworthy of your esteem. I need not tell you of the pangs I feel from the idea of quitting you, and exposing you to the anguish I know you would feel. Nor could I dwell on the topic, lest it should unman me.

"The consolations of Religion, my beloved, can alone support you; and these you have a right to enjoy. Fly to the bosom of your God, and be comforted.

"With my last idea I shall cherish the sweet hope of meeting you in a better world.

"Adieu, best of wives—best of women.

"Embrace all my darling children for me.

"Ever yours,

"Mrs. Hamilton. A. H.

"*July* 10, 1804."

In the evening Colonel Pendleton came to him. Several days before, Hamilton informed him that "he had doubts whether he would not receive and not return his antagonist's first fire." Pendleton remonstrated, urging the danger he would incur, and that every ground of accommodation, not humiliating, had been proposed and

rejected. Hamilton said that he would not decide lightly, but take time to deliberate fully. This purpose was incidentally mentioned at subsequent conversations; but this evening Hamilton informed his friend, "that he had made up his mind not to fire at Colonel Burr the first time, but to receive his fire and to fire in the air. Pendleton again urged him, repeating his former arguments. His final answer was, "My friend, it is the effect of a *religious scruple*, and does not admit of reasoning. It is useless to say more on the subject, as my purpose is definitively fixed."

When Pendleton left him, he penned these last lines:

"My Beloved Eliza: Mrs. Mitchel is the person in the world to whom, as a friend, I am under the greatest obligations. I have not hitherto done my duty to her. But resolved to repair my omission to her as much as possible, I have encouraged her to come to this country, and intend, if it shall be in my power, to render the evening of her days comfortable.

"But if it shall please God to put this out of my power, and to enable you hereafter to be of service to her, I entreat you to do it, and to treat her with the tenderness of a sister.

"This is my second letter.

"The scruples of a Christian have determined me to expose my own life to any extent, rather than subject myself to the guilt of taking the life of another. This much increases my hazards, and redoubles my pangs for you.

"But you had rather I should die innocent than live guilty. Heaven can preserve me, and I humbly hope will; but, in the contrary event, I charge you to remem-

ber that you are a Christian. God's will be done! The will of a merciful God must be good. Once more,

"Adieu, my darling, darling wife.

"MRS. HAMILTON. A. H.

"*Tuesday evening*, 10 *o'clock*."

He then descended from his study, entered a parlour, and looking pensively, a few moments, upon one of his sons, then a child, as he leaned over his book, he smiling asked him if he would sleep with him. He soon retired, and placing his little hands in his own, he repeated with him the Lord's prayer. His child fell asleep in his arms.

At day break he arose quietly, and proceeded to the place of meeting. His manner on the way was calm, collected, composed. He said little, except, when to relieve the suffering of his attendant friend and of his Surgeon, he pointed out the beauties of the scenery, and spoke of the future greatness of the city.

It was nearly seven in the morning when the boat with his party reached the Weahawk on the Jersey shore, the spot where three years before his eldest son had fallen. There were seen Burr in a silken dress and Van Ness who had been employed, their coats off, clearing an opening through the trees.

The parties in a few moments were at their appointed stations. On Pendleton the lot was cast for the choice of position, and to give the word. When Hamilton received his pistol, he was asked by his second, if he would have the hair spring set. His answer was "Not this time."—Burr, on the signal, raised his arm slowly—deliberately took his aim, and fired. His ball entered Hamilton's right side; he raised himself involuntarily, turned a little to the left, at which moment his pistol went off, and he fell upon his face. Burr advanced tow-

ard him, then, without speaking, turned and withdrew, urged from the field by his second to avoid recognition. As the surgeon hastened to Hamilton, Van Ness, with cool precaution, covered his principal with an umbrella to intercept the view.

"When called to him," Dr. Hosack relates, "I found him half sitting on the ground, supported in the arms of Pendleton. His countenance of death, I shall never forget. He had at that instant just strength to articulate, —'This is a mortal wound;' when he sank away apparently lifeless. The ball was ascertained to be through a vital part. His pulses were not to be felt, his respiration was suspended, no motion in his heart was perceptible. He was immediately conveyed out of the wood to the margin of the river bank and placed in the barge. After passing not far from the shore, stimulated by appliances, some imperfect efforts to breathe were manifested. In a few minutes he sighed. He then breathed. His eyes, hardly opened, wandered, without fixing upon any objects. To our great joy he at length spoke, 'My vision is indistinct,' were his first words. Soon after recovering his sight, he happened to cast his eye upon the case of pistols, and observing the one which had been in his hand lying outside, he said, 'Take care of that pistol; it is undischarged, and still cocked; it may go off and do harm. Pendleton knows (attempting to turn his head towards him) that I did not intend to fire at him.' 'Yes,' Pendleton replied, 'I have already made Dr. Hosack acquainted with your determination as to that.' He then closed his eyes, and remained calm without any disposition to speak, nor did he say much except in reply to inquiries as to his feelings. Once or twice he asked as to the state of his pulse, and said that his lower extremities had lost all feeling, manifesting that he entertained no hopes that

he would long survive. Perceiving their approach to the shore, he said, 'Let Mrs. Hamilton be immediately sent for, let the event be gradually broken to her, but give her hopes.' Bayard,* having been informed by his servant that Hamilton had crossed, was standing on the shore of his retreat, and seeing Pendleton and Hosack alone sitting up, foreboding the result, clasped his hands, and burst into a flood of tears. Hamilton alone appeared tranquil and composed. On reaching the house of his friend, he became more languid,—complained of pain in his back—and, notwithstanding repeated anodynes, his sufferings during the whole day were almost intolerable. At his request Bishop Moore was invited to visit him for the purpose of administering the Sacrament. He went, but being desirous to afford time for reflection, and to avoid every appearance of precipitancy, did not comply with his desire—Mason was then sent for—"The exchange," this eminent Presbyterian divine relates, "The exchange of melancholy salutations on entering the apartment, was succeeded by a silence which Hamilton broke, saying, 'that he had been anxious to see him and have the Sacrament administered to him, and that this was still his wish.'"—Mason replied, "That it gave him unutterable pain to receive from him a request to which he could not accede; that, in the present instance, a compliance was incompatible with all his obligations, as it was a principle in their churches never to administer the Lord's Supper privately to any person under any circumstances." He urged it no further. "I then remarked to him, that the Holy Communion is an exhibition and pledge of the mercies which the Son of God has purchased; that the absence of the sign does not exclude from the mercies

* William Bayard of the great mercantile firm "Leroy, Bayard & McEvers."

signified, which were accessible to him by faith in their gracious Author." "I am aware," he said, "of that. It is only as a sign that I wanted it." A short pause ensued. Mason resumed the discourse, observing, "I have nothing to address to you in your affliction, but that same gospel of the grace of God, which it is my office to preach to the most obscure and illiterate; that in the sight of God all men are on a level, as all have sinned and come short of his glory; and that they must apply to him for pardon and life, as sinners, whose only refuge is in his grace, reigning by righteousness through our Lord Jesus Christ." "I perceive it to be so," he said, "I am a sinner; I look to his mercy." "I then adverted to the infinite merit of the Redeemer, as the propitiation for sin, the sole ground of acceptance with God, the sole channel of his favor." A citation from Scripture led to a mention of the duel, on which I reminded him, that he was not to be instructed as to its moral aspect, that the precious blood of Christ was as effectual, and as necessary to wash away the transgression, and that he must there, and there alone, seek peace for his conscience. He assented with strong emotions to these representations, and declared his abhorrence of the whole transaction. "It was always," he said, "against my principles. I used every expedient to avoid the interview; but I have found, for some time past, that my life *must* be exposed to that man. I went to the field determined not to take *his* life." He repeated his disavowal of all intention to hurt Burr, the anguish of his mind in recollecting what had passed, and his humble hope of forgiveness from his God."

"I recurred to the topic of divine compassion; the freedom of pardon in the Redeemer Jesus to perishing sinners. 'That grace, my dear General, which brings salvation is rich, rich.' 'Yes,' he interrupted, 'it is *rich*

grace.' 'And on that grace,' I continued, 'a sinner has the highest encouragement to repose his confidence, because it is tendered to him upon the surest foundation; the Scripture testifying that we have redemption through the blood of Jesus, the forgiveness of sins according to the riches of his grace.' Here, the General, letting go my hand, which he had held from the moment I sat down at his bedside, clasped his hands together, and looking up towards Heaven, said, with emphasis, 'I have a tender reliance on the mercy of the Almighty through the merits of the Lord Jesus Christ.' He replaced his hand in mine, and, appearing somewhat spent, closed his eyes. A little after he fastened them on me, and I proceeded, "The simple truths of the Gospel, my dear Sir, which require no abstruse investigation, but faith in the veracity of God who cannot lie, are best suited to your present condition, and they are full of consolation.' 'I feel them to be so,' he replied. I then repeated these texts of Scripture: 'It is a faithful saying, and worthy of all acceptation, that Christ Jesus came into the world to save sinners, and of sinners the chief.' 'I, even I, am he that blotteth out thy transgressions for mine own sake, and will not remember thy sins.' 'Come now and let us reason together,' saith the Lord; 'though your sins be as scarlet, they shall be white as snow; though they be red like crimson, they shall be as wool.' 'This,' said he, 'is my support. Pray for me.' 'Shall I pray with you?' 'Yes.' I prayed with him, and heard him whisper as I went along; which I supposed to be his concurrence with the petitions. At the conclusion he said, 'Amen. God grant it.'"

"Being about to part with him, I told him, I had one request to make. He asked, 'What it was?' I answered, 'that whatever might be the issue of his affliction, he would give his testimony against the practice of

duelling.' 'I will,' said he, 'I have done it. If *that*,' evidently anticipating the event, 'if *that* be the issue, you will find it in writing. If it please God that I recover, I shall do it in a manner which will effectually put me out of its reach in future.' I mentioned, once more, the importance of renouncing every other dependence for the eternal world but the mercy of God in Christ Jesus; with a particular reference to the catastrophe of the morning. The General was affected and said, 'Let us not pursue the subject any further, it agitates me.' He laid his hands upon his breast with symptoms of uneasiness, which indicated an increased difficulty of speaking. I then took my leave. He pressed my hand affectionately, and desired to see me again at a proper interval. As I was retiring, he lifted up his hands in the attitude of prayer, and said feebly, 'God be merciful to ——.' His voice sunk, so that I heard not the rest distinctly, but understood him to quote the words of the publican in the gospel, and to end the sentence with, 'me a sinner.'"

Bishop Moore, being again requested, visited him at one o'clock. "Upon my entering the room," this excellent prelate relates, "and approaching his bed, he said with the utmost calmness and composure, 'My dear sir, you perceive my unfortunate situation, and no doubt have been made acquainted with the circumstances which led to it. It is my desire to receive the communion at your hands. I hope you will not conceive there is any impropriety in my request?' He added, 'It has for some time past been *the wish* of my heart, and it was my intention to take an early opportunity of uniting myself to the Church, by the reception of that holy ordinance.' I observed to him, that he must be very sensible of the delicate and trying situation in which I was then placed; that however desirous I might be to afford consolation to

a fellow mortal in distress, still it was my duty as a minister of the gospel, to hold up the law of God as paramount to all other law; and that therefore, under the influence of such sentiments, I must unequivocally condemn the practice which had brought him to his present unhappy condition. He acknowldged the propriety of these sentiments, and declared that he viewed the late transaction with sorrow and contrition. I then asked him, 'Should it please God, to restore you to health, sir, will you never be again engaged in a similar transaction, and will you employ all your influence in society to discountenance this barbarous custom?' His answer was, 'That, sir, is my deliberate intention.'"

The bishop proceeded to converse with him on the subject of his receiving the communion, and told him that with respect to the qualifications of those who wished to become partakers of that holy ordinance, his inquiries could not be made in language more impressive than that which was used by our Church: "Do you sincerely repent of your sins past? Have you a lively faith in God's mercy through Christ, with a thankful remembrance of the death of Christ? And are you disposed to live in love and charity with all men?"

"He lifted up his hands, and said, 'With the utmost sincerity of heart I can answer these questions in the affirmative. I have no ill will against Colonel Burr. I met him with a fixed resolution to do him no harm. I forgive all that happened.' I then observed to him, that the terrors of the divine law were to be announced to the obdurate and impenitent; but that the consolations of the gospel were to be offered to the humble and contrite heart; that I had no reason to doubt his sincerity, and would proceed immediately to gratify his wishes.

"The communion was then administered, which he

received with great devotion, and his heart afterwards appeared to be perfectly at rest."*

Meantime Burr had recrossed the river, and riding to his residence, trifling heartlessly on his way, immediately sent a note to a gentleman to meet him on some ordinary business. At this interview, a short distance from the scene of his victim's sufferings, within an hour after the infliction of the wound—no embarrassment nor regret was discerned. The manner was so cheerful and unconcerned that the visitor,† when he heard what had happened, denied its possibility, nor could he be induced to yield it credence.

His confidants then met him. He offered them an excuse, that the ball had not passed through the heart. Congratulations followed, and then open exultation in the public street at the accomplishment of their wishes. "Well, do you not shake, do you not tremble?" said one of his confidential friends on the day of the duel, to a gentleman, who replied, "Tremble for what?" "For the fate of your leaders, for although General Hamilton is the *first*, he is not the *last* that is to fall."

The rumor now spread far and wide. The city was astonished, and in tears.‡ Mingled lamentations and

* The Connecticut Courant, which, as most of the gazettes throughout the United States, was in mourning columns, states, "The bishop then went to prayer. About twenty gentlemen were present; and on their knees in a flood of tears, implored Heaven to bless and preserve their friend. Of all who were present, the General alone appeared tranquil and happy. He calmly bade his farewell, and begged them to cease from mourning, for he was happy."

† Nathaniel Prime, Esq.

‡ "Thus," Wolcott wrote, "will perish one of the greatest men of this or any age."—Again: "He suffers great pain which he endures like a hero." "The feelings of the whole community are agonized beyond description. For the first time envy is silent—all remembered with gratitude, the talents and

execrations were heard on every side. From ear to ear passed no other sounds than "General Hamilton is killed."—"Hamilton is dead."—"Hamilton is shot by Burr." The rage of the populace arose. Personal violence was threatened, and the tumult was only stayed by the news that he was yet alive;—that perhaps, it was possible, the wound might not prove mortal.—Alarmed lest the citizens should be upon them, Burr's partisans deserted him and dispersed. After writing to the surgeon to ascertain the probable result, the principal fled.

Meanwhile his numerous agonized friends crowded around the mansion where Hamilton lay, waiting through the sad hours each change in his pallid countenance with breathless apprehension. His elder comrades of the Revolution were there—gray, wondering old men, bowed with years—remembering him a youth in the first hours of his glorious anticipations, in the earliest triumphs of his genius and his valor. The loving, sighing companions of his later years, his grateful clients—the many witnesses of his benevolences were there. They sat under the trees in mourning, silent woe, awaiting the issue, as though some judgment was coming upon the earth.

At his bedside were his wife and children—the grieving clergy—his tearful physician—and his much-beloved Clarkson.*

During the long—dreary—heavy night, he had some imperfect sleep; but the succeeding morning his symptoms were aggravated, though there was a diminution of pain.† His mind retained all its usual strength and com-

services of the deceased hero, and mourn the untimely end of the pride and ornament of our country." O. Wolcott, July 12, 1804.

* General Matthew Clarkson. In the Revolution distinguished for his chivalry. In after life, for his piety and eminent virtues.

† Statement of Dr. Hosack.

posure. The great source of his anxiety seemed to be in his sympathy with his half distracted wife and children. He spoke frequently of them—"My beloved wife and children" were always his expressions. But his fortitude triumphed over his situation. Once indeed, at the sight of his children brought to the bedside together, seven in number, his utterance forsook him; he opened his eyes, gave them one look and closed them till they were taken away. He alone could calm the frantic grief of their mother: "*Remember, my Eliza, you are a Christian,*" were the expressions with which he frequently addressed her with a firm voice, but in a pathetic and impressive manner, in words and tones never to be effaced from the memory.

At two in the afternoon, my father died.

APPENDIX.

APPENDIX A.

Memoirs of House of Hamilton.—Extract.

CAMBUSKEITH.—COUNTY OF AYR.

CAMBUSKEITH. I. WALTER DE HAMILTON, the second son of the first Sir David de Hamilton, Dominus de Cadyow, is stated by all genealogists and peerage writers to have been the first of this family.

He had a charter from King Robert the Third, inter 1390 et 1406, of a tenement of land in the city of Edinburgh. He was succeeded by his son. Robertson's Index, p. 138.

II. DAVID HAMILTON of Cambuskeith, who obtained from his uncle (patronus) Alan Hamilton of Lethberd,* now called Larbart, in Linlithgowshire, a charter of the lands of Blairmead, which was confirmed by the superior, Archibald, Earl of Douglas, Lord of Galloway and Annandale, at Peebles, 29th January, 1411. He was succeeded by, Rob. Gen. of Cam. i. 357.

III. JAMES HAMILTON of Cambuskeith, who was served heir to his father in the lands of Cambuskeith in 1436. He married Marjory, daughter of Sir James Hamilton of Preston and Fingalton, by whom he had issue,

* The lands of Larbart were originally granted to his grandfather, Sir Walter Fitz-Gilbert de Hamilton, by King Robert the Bruce, before the year 1323.

IV. JOHN HAMILTON of Cambuskeith, who married Marion, daughter of Sir John Maxwell of Calderwood, by whom he had a son,

V. ALEXANDER HAMILTON of Cambuskeith, who was served heir to his father John, in 1489. He is mentioned in the *Acta Auditorum*, of date 24th January, 1488. He married Marion, daughter of Sir Adam Cunninghame of Caprington, by whom he had two sons:

1. *John*, his successor.
2. *William Hamilton* of Macknairstown, afterwards of Sorne and Sanquair.

VI. JOHN HAMILTON of Cambuskeith, who had a charter of the lands of Cambuskeith, dated 10th October, 1530; and another, to himself and Janet Stewart, his spouse, of the mill of Cambuskeith, and the milnlands thereof, dated 21st September, 1532. In 1542, he appears as one of the curators to young James Hamilton of Evandale, whose father, Sir James of Fynnart, had been recently executed on an alleged charge of high treason.

Mag. Sig. Lib. XXIV. No. 24, 260.

Scot's Acts of Parl. vol. ii. 428, 434, 438.

Hollinshead says, that the Laird of Cambuskeith was at the battle of the Butts, fought near Glasgow, in 1543, betwixt the Regent, Earl of Arran, and the Earl of Lennox, and that he was the only person of note who was killed on the side of the former. This is a mistake; for we find, from his last will and testament, registered in the Commissary Records of Glasgow, 22d January, 1547-8, that he died on the 12th September of the preceding year. According to the same authority, his wife's name, at that time, was Joneta Montgomery; from which it appears that he was married twice.

Holl. Chron.

He left issue:

1. *William*, his successor.
2. *Arthur*, } both mentioned in their father's testa-
1. *Elizabeth*, } ment.

VII. WILLIAM HAMILTON of Cambuskeith, who was retoured heir to his father John, in 1546.

He married Christian Farquhar, daughter of the Laird of Gilminscroft, by whom he had issue:

1. *John*, his successor.

VIII. JOHN HAMILTON of Cambuskeith, who was served heir to his father William, in the lands of Cambus-

Inq. Ret. Ayr. 709.

keith, in 1561, and to his grandfather John, in the lands of Pophill and Burnhill in the parish of Kilmarnock and baillery of Cunninghame, on the 1st May, 1572.

He had a charter, "Johanni Hamilton, filio Gulielmi Hamilton de Cambuskeith, terrarum de Grange, ect. in vicecomitatu de Are," dated 7th May, 1588. Mag. Sig. Lib. XXXVI. No. 512.

He married, first, Jane Montgomery, daughter of the Laird of Hazlehead, by whom he had issue:

1. *John* his heir.

He married, secondly, Janet, daughter of Sir Matthew Stewart of Minto, by whom he had,

2. *David*, of Ladieton,
3. *Thomas*, of Monktonhill.

He was succeeded by,

IX. JOHN HAMILTON of Cambuskeith, who was retoured heir to John, his great-grandfather, "in the lands of Ovirmure and Carlincraigs, in the barony of London and baillery of Cunninghame," 3d November, 1603.

He married Janet, daughter of William Cunninghame of Caprington, (by a daughter of Sir William Hamilton of Sorne and Sanquar,) by whom he had no issue. His brother-in-law, William Cunninghame of Caprington, got a charter, under the great seal, in 1598, of the ten pound of Cambuskeith, said to have been obtained not in the fairest manner, but which did not, any more than Caprington itself, remain long with this branch of that family.

On the death of John of Cambuskeith, without issue,

IX. DAVID HAMILTON of Ladieton, his half-brother, became the representative of the family. He was first designed of Ladieton, and afterwards of Grange, which latter has ever since continued to be the title of the family. These lands he acquired from his father in 1571.

He married Marion, daughter of George Campbell of Stevenston-Campbell, or Ducathall, by whom he had issue,

X. ALEXANDER HAMILTON of Grange, who was retoured heir to his father David, in the five merk land of Grange in the baillery of Cunninghame, on 10th January, 1616. Inq. Ret. Ayr. 133.

He had a charter of the lands of Ovirmure and Carlincraigs in the county of Ayr, 23d June, 1615. Mag. Sig. Lib. XLVII. No. 436.

Inq. Ret. Ayr. 184. He was also retoured heir to his uncle, Thomas of Monktonhill, in the lands of Monktonhill, in the barony of Monkton, 23d February, 1619.

He married first, Elizabeth Crawford, niece to the Laird of Lochnorris, by whom he had issue:

1. *John*, his heir.

He married, secondly, Margaret Herries, by whom he had,

Ibid. 516 2. *Robert*, who, on the 19th December, 1661, was retoured heir of provision of his father, Alexander Hamilton, and his mother, Margaret Herries, in the lands of Monktonhill, ect.

Prot. B. Robertoun. XI. JOHN HAMILTON of Grange, who married Margaret, daughter of John Hamilton of Sandieholm. She was infeft, in her virginity, in the lands of Ladieton, of date 22d August, 1622.

Com. Rec. Glas. He died before his father, in February 1662, leaving issue:

1. *John*, who succeeded his grandfather.
2. *Alexander*.

1. Daughter, *Anne*, married to John Crawford.

XII. JOHN HAMILTON of Grange. He was appointed, in 1665, curator to Patrick Hamilton of Neilsland. He Rob. Gen. of Cam. married Elizabeth, daughter of John Crawford the XX. of Crawfordland, by whom he had two sons and six daughters. His daughter, Margaret, was married to Robert Com. Rec. Glas. Hunter of Kirkland in Kilbryde parish. He died in April 1675, and was succeeded by his eldest son,

XIII. JOHN HAMILTON of Grange, who, on the 31st Inq. Ret. Ayr. 603. January, 1677, was retoured heir to his father, in the lands of Grange, ect.

In 1685, he acquired part of the lands of Stevenston-Campbell, from Robert Cunninghame of Auchinharvie, and about this time also he acquired the barony of Stevenston-Cunningshame from the Glencairn family, the mansion of which, Kerilaw, under the name of Grange, became from this time forward the residence of the family.

Mag. Sig. Lib. LXXIII. No. 143. He had a charter of the lands of Balgray in the county of Ayr, dated 17th December, 1686.

He married Rebecca, daughter of Alexander Cunninghame of Craigends, by whom he had issue:

1. *Alexander*, his successor.

1 Daughter, *Janet*, married to William Warner of Ardeer.

XIV. ALEXANDER HAMILTON of Grange, who had a charter of the lands of Kerilaw, dated 12th February, 1714.

He married, about 1730, Elizabeth, eldest daughter of Sir Robert Pollock of that Ilk, by whom he had issue:

1. *John*,
2. *Robert*, } successively Lairds of Grange.

3. *Alexander*, who married Rachel, daughter of James Cunninghame of Collelan, by whom he had issue:

1. *Alexander*, who succeeded to the estate. 1. Daughter, *Elizabeth*, married Robert Cunninghame of Auchinarvie, and had issue. 2. *Margaret*, married the Rev. Thomas Pollock, minister of Kilwinning, and had issue. 3. *Frances*, married Edward M'Cormick, Esq., advocate, sheriff-depute of Ayrshire, and had issue. 4. *Jane*, died unmarried.

4. *James*, a proprietor in the West Indies, and father of General Hamilton, the celebrated statesman and patriot in the United States of America, who fell, greatly regretted, in a duel with a Mr. Burr.

5. *Walter*,
6. *George*, } died unmarried.

7. *William*, married Jean, daughter of Robert Donald, Esq., and had issue.

8. *Joseph*.

One of the daughters died in infancy; the other, Elizabeth, was married to Alexander Blair, Esq., surveyor of the customs at Port Glasgow, son of William Blair, and had issue,

XV. JOHN HAMILTON of Grange, who died unmarried, and was succeeded by his brother.

XV. ROBERT HAMILTON of Grange, who, also dying unmarried, in 1774, was succeeded by his nephew.

XVI. ALEXANDER HAMILTON of Grange, advocate, and Lieut-Col. of the 2d Reg't of Ayrshire Local Militia.

ARMS.—*Gules*, a lion rampant, *argent*, (for the Earldom of Ross,) betwixt three cinquefoils, *ermine*.
CREST.—An oak tree, *proper*.
MOTTO.—In an escroll above, "*Viridis et fructifera.*"

A. Hamilton to James Hamilton.

"My Dear Brother: I have received your letter of the 31st of May last, which, and one other, are the only letters I have received from you in many years. I am a little surprised you did not receive one which I wrote to you about six months ago. The situation you describe yourself to be in, gives me much pain, and nothing will make me happier than, as far as may be in my power, to contribute to your relief.

"I will cheerfully pay your draft upon me for fifty pounds sterling, whenever it shall appear. I wish it was in my power to desire you to enlarge the sum; but though my future prospects are of the most flattering kind, my present engagements would render it inconvenient to me to advance you a larger sum.

"My affection for you, however, will not permit me to be inattentive to your welfare, and I hope time will prove to you that I feel all the sentiments of a brother. Let me only request of you, to exert your industry for a year or two more where you are, and at the end of that time I promise myself to be able to invite you to a more comfortable settlement in this country. Allow me only to give you one caution, which is to avoid, if possible, getting in debt. Are you married or single? If the latter, it is my wish for many reasons it may be agreeable to you to continue in that state.

"But what has become of our dear father? It is an age since I have heard from him or of him, though I have written him several letters. Perhaps, alas! he is no more, and I shall not have the pleasing opportunity of contributing to render the close of his life more happy than the progress of it. My heart bleeds at the recollection of his misfortunes and embarrassments. Sometimes I flatter myself his brothers have extended their support to him, and that he now enjoys tranquillity and ease; at other times I fear he is suffering in indigence. I entreat you, if you can, to relieve me from my doubts, and let me know how or where he is, if alive; if dead, how and where he died. Should he be alive, inform him of my inquiries, beg him to write to me, and tell him how ready I shall be to devote myself and all I have to his accommodation and happiness.

"I do not advise your coming to this country at present, for the war has also put things out of order here, and people in your business find a subsistence difficult enough. My object will be, by and by, to get you settled on a farm.

"Believe me always your affectionate friend and brother,

"ALEX. HAMILTON.

"Mr. James Hamilton.
"New York, June 23, 1785."

APPENDIX B.

The similarity of the phraseology of the Mecklenburg Declaration of Independence with that which emanated from Jefferson, has given rise to a warm controversy, in which the priority and authenticity of that issued at Mecklenburg has been questioned. The result has been the complete establishment, by unquestionable, evidence of the authenticity of that interesting paper, and of its having been promulgated a year before the paper of Jefferson. As to the latter, some comments in the life of Paine by Cheatham will be found not undeserving notice.

APPENDIX C.

VOL. III. 182.

In a criticism of the "Life of Hamilton," ii. 395, which criticism does not touch any essential point, a comment is made—that this amendment was not proposed as a *substitute*, but as a *further amendment*. In answer, the report of the debates in the Legislature, published in the Daily Advertiser, January 18, 1787, and January 20, is given:

"*January* 16.—Mr. Malcolm 'hoped that Mr. Varick [the speaker] would withdraw it for the present.' Mr. Varick declared his willingness to do so, if any ill consequences were to be apprehended from its present form, as he had no view of creating or widening a difference between the Legislature and Congress. Mr. Varick accordingly said he would withdraw his motion.

"*January* 20, 1787.—On amendment that the House approve of the conduct of the Governor in not convening the Legislature when thereunto required by Congress, Mr. Malcolm proposed to *substitute* an amendment to the paragraph, *in lieu* of the one offered by Mr. Speaker; the object of which was, to avoid a direct expression of opinion as to the Governor's conduct, &c."

In the same criticism, it is represented as "remarkable, that having it in his power to effect a perfect repeal of the 'Act to preserve the freedom and independence of this State, and for other purposes therein mentioned,' Colonel Hamilton should have contented himself with the abrogation of a part, leaving its more rigorous penalties in force against a few, who, by name, were yet doomed to outlawry; all of whom were persons of respectability and worth, and who had done no more to merit perpetual exclusion, than those restored by him. To perform this act of mercy was left to his political opponents; and, at the next session of the Legislature, on motion of Samuel Jones, a

staunch supporter of Governor Clinton, the last clause of the law of 1784 was repealed." The bill referred to, which omits the repeal of this clause, is "An Act regulating Elections," and was drawn to repeal every act of a proscriptive character, and expressly the test oath. It was a general "act for regulating elections;" and was *not* the appropriate mode of repealing this last clause referred to, which provided for the return and residence of certain *named* persons, "without molestation, until the end of the next meeting of the Legislature, or until further legislative provision shall be made in the premises." As no legislative provision of a proscriptive character, as to these persons, had been attempted; and, as the recent legislation showed that all such proscription must cease, the probability is, that the express repeal of this provision was not deemed necessary; the less so, as one of the persons "named" in that clause was a colleague of Hamilton in the Legislature of 1787, and his warm personal and political friend, Richard Harrison. In the Legislature of 1788, a general act *pro majori cautela* was passed, repealing *in toto* all the previous obnoxious laws.

APPENDIX D.

VOL. V. 171.—*Certified copy of Letter from T. Jefferson to John Jay, Secretary of Foreign Affairs; attested by W. Short.*

"PARIS, September 26, 1786.—It being known that Mr. De Calonne, the Minister of Finance for this country, is at his wits' end how to raise supplies for the ensuing year, a proposition has been made him by a Dutch company to purchase the debt of the United States to this country for twenty millions of livres, in hand. His necessities dispose him to accede to the proposition; but a hesitation is produced by the apprehension that it might lessen our credit in Europe, and perhaps be disagreeable to Congress. I have been consulted herein by the agent for that company. I informed him that I could not judge what effect it might have on our credit, and was not authorized either to approve or disapprove of the transaction. I have since reflected on this subject. If there be a danger that our payments may not be punctual, it might be better that the discontents which would thence arise, should be transferred from a Court of whose good will we have so much need, to the breasts of a private company; but it has occurred to me that we might find occasion to do what would be grateful to this Court, and establish with them a confidence in our honor. I am informed that our credit in Holland is sound. Might it not be possible, then, to borrow there the four and twenty millions due to this country, and thus pay

them their whole debt at once? This would save them from any loss on our account, nor is it liable to the objection of impropriety in creating new debts before we have more certain means of paying them: it is only transferring a debt from one creditor to another, and removing the causes of discontent to persons with whom they would do us less injury. Thinking that this matter is worthy the attention of Congress, I will endeavour that the negociation shall be retarded till it may be possible for me to know their decision, which, therefore, I will take the liberty of praying immediately.

"THOMAS JEFFERSON.

"*Test*, W. SHORT."

"WASHINGTON, May 3, 1844.—I have compared the above, and find it a true copy with the letter in No. 87, on file in the Department of State, (labled 'Letters of T. Jefferson, vol. i. 1785, 1786.')

"E. A. DICKINS, *Clerk of Archives.*"

"PARIS, November 12, 1786.—SIR: In a letter which I had the honor of writing you on the 26th of September, I informed you that a Dutch company were making propositions to the Minister of Finance here to purchase at a discount the debt due from the United States to this country.

"I have lately procured a copy of their memoir, which I now enclose. Should Congress think this subject worthy their attention, they have no time to lose, as the necessities of the Minister, which alone has made him listen to this proposition, may force him to a speedy conclusion. The effect which a payment of the whole sum would have here would be very valuable; *the only question* is, whether we can borrow it in Holland—a question which cannot be resolved but in Holland. The trouble of the trial and expence of the transaction would be well repaid by the dispositions which would be excited in our favor in the King and his Ministers.

"THOMAS JEFFERSON.

"HON. MR. JAY."

The variations in the previous letter of September 26, 1786, from that taken from the Records of the Board of Treasury and printed by order of Congress, will be seen by reference to the extract from it in vol. iii. infra, p. 91. See also 3 D. C. 182, Report of Board of Treasury, October 2, 1787.

APPENDIX E.

VOL. V. 242. *Circular by Hamilton to the Collectors of the Customs.*

PHILADELPHIA, August 4, 1793.—SIR: It appearing that repeated contraventions of our neutrality have taken place in the ports of the United States, without having been discovered in time for prevention or remedy, I have it in command from the President, to address to the collectors of the respective districts a particular instruction on the subject.

It is expected, that the officers of the customs in each district will in the course of their official functions have a vigilant eye upon whatever may be passing within the ports, harbors, creeks, inlets and waters of such district, of a nature to contravene the laws of neutrality, and upon discovery of any thing of the kind will give immediate notice to the Governor of the State and to the attorney of the judicial district, comprehending the district of the customs within which any such contravention may happen.

To assist the judgment of the officers on this head, I transmit herewith a schedule of rules, concerning sundry particulars, which have been adopted by the President, as deductions from the laws of neutrality, established and received among nations. Whatever shall be contrary to these rules will, of course, be to be notified, as above mentioned.

There are some other points, which, pursuant to our treaties and the determinations of the executive, I ought to notice to you.

If any vessel of either of the powers at war with France should bring or send within your district a prize, made of the subjects or property of France, it is immediately to be notified to the Governor of the State, in order that the measures may be taken, pursuant to the 17th article of our treaty with France, to oblige such vessel and her prize, or such prize when sent in without the capturing vessel, to depart.

No privateer of any of the powers at war with France coming within a district of the United States, can, by the 22d article of our treaty with France, enjoy any other privilege than that of *purchasing such victuals as shall be necessary for her going to the next port of the prince or state from which she has her commission.* If she should do any thing besides this, it is immediately to be reported to the governor and the attorney of the district. You will observe by the rules transmitted, that the term privateer is understood not to extend to vessels armed for merchandize and war, commonly called with us *letters of*

marque, nor, of course, to vessels of war in the immediate service of the government of either of the powers at war.

No armed vessel which has been or shall be *originally fitted out* in any port of the United States by either of the parties at war is henceforth to have asylum in any district of the United States. If any such armed vessel shall appear within your district, she is immediately to be notified to the governor and attorney of the district; which is also to be done, in respect to any prize, that such armed vessel shall bring or send in. At foot is a list of such armed vessels of the above description as have hitherto come to the knowledge of the Executive.

The purchasing within, and exporting from, the United States, *by way of merchandize*, articles commonly called contraband (being generally, warlike instruments and military stores) is free to all the parties at war, and is not to be interfered with. If our own citizens undertake to carry them to any of those parties, they will be abandoned to the penalties which the laws of war authorize.

You will be particularly careful to observe, and to notify, as directed in other instances, the case of any citizen of the United States, who shall be found in the service of either of the parties at war.

In case any vessel shall be found in the act of contravening any of the rules or principles which are the ground of this instruction, she is to be refused a clearance until she shall have complied with what the governor shall have decided in reference to her. Care, however, is to be taken in this, not unnecessarily or unreasonably to embarrass trade or to vex any of the parties concerned.

In order that *contraventions* may be the better ascertained, it is desired that the officer who shall first go on board any vessel arriving within your district shall make an accurate survey of their condition, *as to military equipment*, to be forthwith reported to you, and that prior to her clearance a like survey be made, that any transgression of the rules laid down may be ascertained.

But as the propriety of any such inspection of a *vessel of war in the immediate service of the government* of a foreign nation, is not without question in reference to the usage of nations, no attempt is to be made to inspect any such vessel till further order on the point.

The President desires me to signify to you his most particular expectation that the instruction contained in this letter will be executed with the greatest activity, care and impartiality. Omissions will tend to expose the Government to injurious imputations and suspicions, and proportionably to commit the good faith and peace of the country; objects of too much importance not to engage every proper exertion of your zeal.

With consideration, I am, sir, your obedient servant.

APPENDIX F.

Vol. VI. 407.—1. *Jefferson to Mazzei.—From the Moniteur.—2. Translation.—3. Jefferson's Press Copy.—4. Comment.*

1. *Jefferson to Mazzei.*

Cette lettre (literalment traduite) est adressée a M. Mazzei Auteur des Recherches historiques et politiques sur les Etats Unis d'Amerique, demeurant en Toscane.

"Notre etat politique a prodigieusement changé depuis que vous nous avez quitté—au lieu de ce noble amour de la liberté et de ce gouvernement républicain, qui nous ont fait passer triomphans à travers les dangers de la guerre, un parti anglican—monarchico—aristocratique s'est elevé.—Son objet avoué est de nous imposer la substance, comme il nous a deja donné les formes du gouvernement britannique; cependant le corps principal de nos citoyens reste fidele aux principes republicains.—Tous les proprietaires fonciers sont pour ces principes, ainsi qu'une grande masse d'hommes a talent. Nous avons contre nous (republicains) le pouvoir executif, le pouvoir judiciare, (deux des trois branches de la législature,) tous les officiers du gouvernement, tous ceux qui aspirent à l'être, tous les hommes timides qui prêférent le calme du despotisme à la mer orageuse de la liberté, les marchands bretons et les americains qui trafiquent avec des capitaux bretons, les speculateurs, les gens interessés dans la banque et dans les fondes publics (établissemens inventés dans les vues de corruption, et pour nous assimiler au modêle britannique dans les parties pourries).

Je vous *donnerais* la fièvre si je vous nommais les apostats qui ont embrassé ces heresies, des hommes qui etaient des Solomons dans le conseil et des Samsons dans les combats, mais dont la chevelure a été coupé par la *catin angleterre.*

On voudrait nous ravir cette liberté que nous avons gagnée par tant de travaux et de dangers. Mais nous la conservions; notre masse de poids et de richesse est trop grande pour que nous ayons a craindre qu'on tente d'employer la force contre nous. Il suffit que nous nous réveillons, et que nous rompions les liens lilliputiens dont ils nous ont garottés pendant le premier sommeil qui a succédé à nos travaux.

Il suffit que nous arretons les progrès de ce systeme d'ingratitude et d'injustice envers la France de qui on voudroit nous aliener pour nous rendre a l'influence britannique, &c."

2. *From the Moniteur.*

This letter (literally translated) is addressed to Mr. Mazzei, author of Historical and Political Researches on the United States of America, residing in Tuscany.

"Our political condition has prodigiously changed since you left us. In place of that noble love of Liberty and of that republican government which have made us pass triumphant through the dangers of the War, a party—Anglican—Monarchical—Aristocratic is risen up.—Its avowed object is to impose on us the substance, as it has already given us the forms of the British Government; nevertheless the principal body of our citizens remains faithful to Republican principles. All the landed proprietors are for these principles, and so is a great mass of men of talent. We have against us (Republicans) the Executive power, the Judiciary power (two of the three branches of the Legislature), all the officers of the Government, all those who aspire to be officers—all timid men who prefer the calm of Despotism to the stormy sea of liberty—British merchants and Americans who traffic with British capitals—Speculators—people interested in the Bank and in the public funds (establishments invented in views of corruption, and to assimilate us to the British model in its rotten parts). I *would give you* a fever if I were to name to you the Apostates who have embraced these heresies,—men who were Solomons in the Council and Samsons in the field, but whose hair had been cut off by the *Harlot England.*

They would wrest from us that liberty which we have gained by so many labors and dangers. But we have preserved it—our mass of weight and wealth is too great that we would have to fear that they would attempt to employ force against us. It suffices that we awake, and that we break the lilliputian ties with which they have bound us, during the first sleep which has succeeded our labors. It suffices, that we arrest the progress of this system of ingratitude and injustice towards France, from whom they would alienate us to restore us to the British influence, &c."

3. *Jefferson's Press Copy—to P. Mazzei. Jefferson's Works, iii.* 327.

"MONTICELLO, April 24, 1796.—MY DEAR FRIEND: The aspect of our politics has wonderfully changed since you left us. In place of that noble love of liberty and republican government which carried us triumphantly through the war, an Anglican, monarchical, and aristocratical party has sprung up, whose avowed object is to draw over us the substance, as they have already done the forms of the British government. The main body of our citizens, however, remain true to

their republican principles: the whole landed interest is republican, and so is a great mass of talents. Against us are the Executive, the Judiciary, two out of three branches of the Legislature; all the officers of the Government, all who want to be officers, all timid men who prefer the calm of despotism to the boisterous sea of liberty, British merchants and Americans trading on British capitals, speculators, and holders in the banks and public funds, a contrivance invented for the purposes of corruption, and for assimilating us in all things to the rotten as well as the sound parts of the British model. It would give you a fever, were I to name to you the apostates who have gone over to these heresies, men who were Samsons in the field and Solomons in the council, but who have had their heads shorn by the harlot England. In short, we are likely to preserve the liberty we have obtained only by unremitting labors and perils. But we shall preserve it; and our mass of weight and wealth on the good side is so great, as to leave no danger that force will ever be attempted against us. We have only to awake and snap the lilliputian cords with which they have been entangling us during the first sleep which succeeded our labors.

"I will forward the testimonial of the death of Mrs. Mazzei, &c."

4. *Comment on Jefferson's attempted exculpation of parts of this letter to* MAZZEI.

Though at the time of the publication of this noted letter in this country, Jefferson admits that an attempt to explain it would "bring on a personal difference with General Washington," he many years after sought to escape the odium which he felt must permanently attach to his character as the author of the calumnies this letter contains.

In this explanation, he avers, that, "in the sentence, 'I would give you a fever if I were to name to you the apostates who have embraced these heresies, men who were Solomons in the council and Samsons in the field, but whose hair has been cut off by the harlot England,' Washington knew that I meant it for the Cincinnati generally, and that, from what had passed between us at the commencement of that institution, I could not mean to include him."*

If the term "Samson" was applicable to the Cincinnati, it has been pertinently asked,† could the officers of the Revolutionary army be called "Solomons in the council"? Were *they*, this large body of patriots, "the apostates" he might name who had embraced these

* Jefferson's Works, iv. 404.

† See a most searching comment on Jefferson's explanation in "Life of Washington," ii. note xxvi., by Chief Justice Marshall.

heresies? He had previously said: "All the landed proprietors are for Republican principles." At the South the Cincinnati were most of them "landed proprietors."

What is this explanation but a cumulative calumny on the officers of the army of the Revolution?

"Add to this," Jefferson remarks, "that the letter saying 'that two out of the three branches of Legislature were against us,' was an obvious exception of him," (Washington,) "it being well known that the majorities in the two branches of Senate and Representatives were the very instruments which carried, in opposition to the old and real Republicans, the measures which were the subjects of condemnation in this letter." The state of things at the date of the Mazzei letter precludes this defence. The Senate was *Federal*, the majority of the Representatives Democratic. He could not intend that this majority was one of the "very instruments" he condemned. Whom could he have intended, if not the President and the Senate—parts of the Government known as Federalists, and opposed to his policy? If he did not mean these, then he certainly intended, looking at the letter as literally translated from the Italian into the Moniteur, in which the phrase is, "We have against us (Republicans) the Executive power—the Judiciary power (two out of the three branches of the Legislature)" to aver that the Executive and the Judiciary were both against the "Republicans." Was this an "obvious exception" of Washington, or was it not a necessary and positive inclusion and ostracism of this venerated being as a party to this treason against liberty?

Is not his language to Madison, that an avowal in part would "embroil him personally with *every* member of the Executive, with the Judiciary, and with others still,"* a full confession that this charge included Washington as a "member of the Executive"? To the continuing and comprehensive term: "*All* the officers of the Government are against us," what "obvious exception" of Washington can be framed?

As to the charge, that their "avowed object was to impose the substance as they had already done the *forms* of the British Government," he affirms, that he meant by the word *forms*—levees, birthdays—not its frame or organization. Yet, in a subsequent letter, repeating this charge of apostacy, he uses the words "*forms*" as equivalent with that of the *frame* of Government: "Surely," he wrote, "we had in view to obtain the theory and practice of good government, and how any, who seemed so ardent in this pursuit, could as shamelessly have apostatized, and supposed we meant only to put our Government into other hands, but not other *forms*, is indeed wonderful."† To another correspondent

* Jefferson's Works, iii. 363. † Ibid., iii. 487. Dec. 19, 1801.

he writes: "It is true that a party has risen up or rather has come among us which is endeavoring *to separate us from all friendly connection with France*, to unite our destinies with that of Great Britain, and to *assimilate our Government to theirs*."* Though he had written to a friend in these terms, yet he ventures to affirm, that the passage in his letter to Mazzei, "It suffices that we stop the progress of that system of ingratitude towards France, from whom they would alienate us to restore us to the British influence" is an interpolation! In this same letter, he almost repeats the language addressed about eighteen months before to Mazzei: "Our lenity in permitting the return of the old tories gave the first body to this party; they have been increased by large importations of British merchants and factors, by American merchants dealing on British capital, and by stock dealers and banking companies, who, by the aid of a paper system, are enriching themselves to the ruin of our country, and swaying the Government by their possession of the printing presses, which their wealth commands, and by other means, not always honorable to the character of our countrymen. Hitherto, their influence and their system have been irresistible, and they have *raised up an Executive* power which is too strong for the Legislature. But I flatter myself they have passed their zenith. The people, while these things were doing, were lulled into rest and security from a cause which no longer exists," (Washington having ceased to be President.) "No prepossessions now will shut their ears to truth. They begin to see to what port their leaders were steering during their slumbers, and there is yet time to haul in, if we can avoid a war with France."

APPENDIX G.

Rules for Mr. Philip Hamilton.

From the first of April to the first of October, he is to rise not later than six o'clock. The rest of the year not later than seven. If earlier he will deserve commendation. Ten will be his hour of going to bed throughout the year.

From the time he is dressed in the morning till nine o'clock (the time for breakfast excepted) he is to read law.

At nine he goes to the office and continues there till dinner time; he will be occupied partly in the writing and partly in reading law.

After dinner he reads law at home till five o'clock. From this

* Jefferson's Works, iii 364. Sept. 1, 1797.

hour till seven he disposes of his time as he pleases. From seven to ten he reads and studies whatever he pleases.

From twelve on Saturday he is at liberty to amuse himself.

On Sunday he will attend the morning church. The rest of the day may be applied to innocent recreations.

He must not depart from any of these rules without my permission.

APPENDIX H.

Gouverneur Morris to Lewis B. Sturges, Nov. 1, 1814.—Extract "Life of Gouverneur Morris," by Jared Sparks:

"New England will, I trust, continue true to herself. The oppressive course pertinaciously pursued" (by the Administration) "must open the eyes even of the wilfully blind. You will unite with Massachusetts; and New York must connect herself, whether she will or no, with New England. The question of boundary to be solved, therefore is the Delaware, the Susquehannah or the Potomac. *Medio tutissimus ibis.* Better preserve principle than extend dominion."

Gouverneur Morris to Moss Kent, Jan. 10, 1815:

"You, however, who are somewhat of a Yankee, will see in the modest propositions from Hartford, matter more serious than the rattling of words. Yankees like to make what they call a fair bargain, and will, I *guess*, easily take up the notion of bargaining with the national Government, which, according to *my notion*, can make no bargain of practical result, which will not amount to a severance of the Union."

APPENDIX I.

Last Will and Testament of Alexander Hamilton.

"In the name of God, Amen!

"I, Alexander Hamilton, of the State of New York, Counsellor at Law, do make this my last Will and Testament, as follows: First, I appoint John B. Church, Nicholas Fish, and Nathaniel Pendleton, of the city aforesaid, esquires, to be executors and trustees of this my Will, and I devise to them, their heirs and assigns, as joint tenants and not as tenants in common, all my estate real and personal whatsoever and wheresoever upon trust, at their discretion to sell and dispose of the same at such time and times, in such manner and upon such terms as they the survivors and survivor shall think fit, and out of the proceeds to pay all the debts which I shall owe at the time of my decease,

in whole, if the fund shall be sufficient, proportionally, if it shall be insufficient, and the residue, if any there shall be, to pay and deliver to my excellent and dear wife Elizabeth Hamilton.

"Though, if it shall please God to spare my life, I may look for a considerable surplus out of my present property, yet if he should speedily call me to the eternal world, a forced sale, as is usual, may possibly render it insufficient to satisfy my debts. I pray God that something may remain for the maintenance and education of my dear wife and children. But should it on the contrary happen that there is not enough for the payment of my debts, I entreat my dear children, if they or any of them shall ever be able, to make up the deficiency. I without hesitation commit to their delicacy a wish which is dictated by my own. Though conscious that I have too far sacrificed the interests of my family to public avocations, and on this account have the less claim to burthen my children, yet I trust in their magnanimity to appreciate as they ought this my request.

"In so unfavorable an event of things, the support of their dear mother with the most respectful and tender attention, is a duty all the sacredness of which they will feel. Probably her own patrimonial resources will preserve her from indigence. But in all situations they are charged to bear in mind, that she has been to them the most devoted and best of mothers. In testimony whereof I have hereunto subscribed my hand, the ninth day of July in the year of our Lord one thousand eight hundred and four.

"ALEXANDER HAMILTON.

"Signed, sealed, published, and declared as and for his last will and testament in our presence, who have subscribed our names in his presence.

"DOMINICK T. BLAKE,
"GRAHAM NEWELL,
"INEZ B. VALLEAU."

APPENDIX J.

Epitaph on a Tablet, by the Society of the Cincinnati, in Trinity Church, New York.

THIS TABLET
DOES NOT PROFESS TO PERPETUATE
THE MEMORY OF A MAN,
TO WHOM THE AGE HAS PRODUCED
NO SUPERIOR;
NOR TO EMBLAZON WORTH,
EMINENTLY CONSPICUOUS IN EVERY FEATURE
OF HIS COUNTRY'S GREATNESS;
NOR TO ANTICIPATE POSTERITY IN THEIR
JUDGMENT OF THE LOSS WHICH SHE HAS
SUSTAINED BY HIS PREMATURE DEATH;
BUT TO ATTEST,
IN THE SIMPLICITY OF GRIEF,
THE VENERATION AND ANGUISH WHICH FILL
THE HEARTS OF THE MEMBERS OF THE
NEW YORK STATE SOCIETY OF
CINCINNATI,
ON EVERY RECOLLECTION
OF THEIR ILLUSTRIOUS BROTHER,
MAJOR-GENERAL
ALEXANDER HAMILTON.

APPENDIX K.

"Life of Thomas Jefferson," by Henry S. Randall, LL. D.

In the course of this history, the necessity has often recurred of indicating and disproving frequent misrepresentations in which this writer has indulged, as to the character and conduct of Alexander Hamilton. In order that a fair judgment may be formed of the value of this writer's statements, an extract is given of a letter addressed by him to the author of this history, several years before its publication. It may possibly be said, that the statements referred to were the results of subsequent explorations, and of access to materials unknown to the writer at the time this letter was written. This plea cannot avail. The materials and authority upon which the calumnies against Hamilton are urged by him were, with few exceptions, before him in the

"Works of Thomas Jefferson," published in 1830, that is, twenty-eight years prior to the issue of this "Life of Thomas Jefferson," by Randall.

Extract of a letter from Henry S. Randall to J. C. Hamilton, dated "Secretary's Office, Albany, December 21, 1853:"

"Will you allow me to say, that I hope you will labor as few have ever labored, to make a *perfect* biography of Alexander Hamilton. I almost envy you, sir, your task—your privilege rather—to describe such a character; a character which always rises before my mind's eye, associating the intellect and patriotism of Hampden with something of that haughty grandeur, that super-regal will and ability to execute, which light up in glory the dark features of Strafford.

"That *tone* in your letter, which has called out these frank expressions, calls for another frank expression. I do not belong to the political school of your father. I am writing a life of his great rival, Mr. Jefferson, with the full approbation and aid of Mr. Jefferson's family. I have all their private papers not in the hands of Congress. Shall I 'say on'? I shall undoubtedly feel called upon to criticize some of your father's views and acts. But I *mean* to do it fairly, in the spirit of history, and not in the spirit of a 'scurvy politician,' or a controversialist. You, I doubt not, will do the same in regard to Mr. Jefferson. I suppose you are aware that, with all of Mr. Jefferson's severity of remark toward your father in regard to a class of political subjects, that he appreciated and admired his high qualities, both as a man and a statesman. Your father's bust stood conspicuously among those of the few great men he selected to adorn Monticello. To the accomplished gentlemen of other lands and his own, who so often congregated in that 'pavilion,' he always spoke with marked and grave respect of Hamilton."

INDEX.

PAGE

Account general of expenditures, iv. 347
Accounts with States—Report to settle these accounts, and for a loan to discharge the balances due, opposed, but passed in the House—lost in the Senate, v. 146, 150
Act for the impartial administration of justice in the Colonies, i. 51
for the better regulating the government of Massachusetts Bay, 51
authorizing the quartering of troops in Boston, 52
regulating the government of Quebec, 52
providing for payment of interest on balances due certain States, v. 596
comments upon, 601
for transfer of stocks to creditors of States, vi. 150
to punish unauthorized correspondence with foreign governments, vii. 237
Adams, John, to Charles Lee, i. 141
his birth—flies from Congress, 164
censures Washington, 165
circuitous route to Lancaster—again censures Washington, 281
his early conduct, 417
suspected, 418
complicity in plot to elevate Gates, 419
substituted for Deane in commission to negotiate, ii. 419
appointed Minister to England, 427
exultation of, 430
conduct at Paris, 431
advised by Vergennes to conceal his mission, 432
discontent and complaints, 433
difficulty with Vergennes, complains to Franklin and to Congress, 436
proceeds to Amsterdam, 437
instructed not to require preliminary acknowledgment of Independence, 443
instructed to do nothing as to peace without knowledge and concurrence of France, 444
ultimately to govern himself by her advice and opinion, 446

PAGE

Adams, John—
his commission revoked, chosen Minister to Holland, ii. 446
instruction proposed by Madison intended to prevent the exercise of his powers, 447
asks reception at Hague, discountenanced by French Envoy and refused, 449
Congress urged to appoint a substitute, with new instructions—his instructions limited, 450
proceeds to Paris; conference with Vergennes, 451
returns to Amsterdam, is checked, but finally publicly acknowledged as Minister, 453
conduct disapproved—indignant reply, 453
views of terms of peace with Great Britain, 465
his varying opinions as to France, 466
arrives at Paris, and cooperates with Jay in final negotiations, 481
urges a mission to England—describing requisites of a minister, iii. 52
again urges a mission to England, 111
appointed Envoy, 112
England disinclined to negotiate, 113
memorial of Adams, 114
reply of England charging violations of treaty—Jay's report, 114
his fluctuating opinions as to foreign policy of U. S., 115, 119
restrained by Congress, 116
returns to U. S.—approval of his conduct first rejected, then assented to, 116
contemplated for Vice-President, 561
objections to 562
receives a minority vote as Vice-President, 568
casts vote in favor of power of removal by President, iv. 15
favors titles 22
political pamphlets of, used against him, 493
Jefferson's attack upon, 494
unmanly misstatements of Jefferson disproved, 495
urged by Hamilton to resume his seat in the Senate, v. 92

	PAGE
Adams, John—	
violently assailed,	vi. 537
in despite of doubts, Federalists decide to support him for Presidency,	538
anticipated hostility of, toward friends of T. Pinckney,	575
imputed unfair dealing toward, disproved,	576
electoral votes for,	576
jealousy toward Jay,	578
attempted beguilement of, by democrats,	601
inaugurated President,	606
allusions by, to feelings exhibited toward Washington,	606
retains Washington's Cabinet in office,	607
inaugural address of,	vii. 1
to Jefferson—as to his Cabinet, calling Washington and Hamilton *jugglers*,	2
proposes to send Jefferson envoy to France,	3
proposes nomination of Gerry and Madison with Pinckney,	3
his opinion of Frenchmen,	3
opinion of, by Governor of Connecticut,	24
convenes Congress, which meets,	30
speech to Congress,	31
leaning to Gerry—Dana selected with Marshall and Pinckney as Commissioners to France,	33
speech to Congress—its decisive terms,	90
message as to conduct of France, and consequent policy,	103
ardent replies to patriotic meetings,	154
prompts prosecutions against incendiary presses,	161
his waywardness,	167
excited replies to addresses disapproved by Hamilton,	168
to Washington—his appointment as Lieutenant-General—desires his advice as to a list of officers —Inspector-General, &c.,	178
hostility to Pinckney,	179
jealousy of his importance as President,	180
nomination of general officers,	186
unwilling to place Hamilton over Knox, but agrees rank be left to future settlement,	186
insists Knox entitled to highest rank, and would also outrank Hamilton by Pinckney,	189
charge against Washington,	189
announces his determination to place Knox and Pinckney in rank above Hamilton,	192
contradictory view of, as to prior rank,	192
explanatory letter to McHenry,	196
reply to Washington as to general staff,	202
gives no encouragement to enterprise to liberate South America,	220
inquiry as to expediency of a Declaration of War, and as to nomination of a Minister to France,	227
caprices and selfishness of,	229
vacillations with Gerry,	231
solicitude of Talleyrand for an accommodation announced to President by Murray, suggesting a new embassy from U. S.,	vii. 232
declines meeting Washington and Hamilton at Philadelphia,	233
influences to induce him to negotiate with France,	233
speech of, to Congress,	234
declares a new embassy to France would be an act of humiliation,	235
message transmitting correspondence with Talleyrand, and comment by Pinckney,	293
his jealousy of Washington being appointed General,	296
urged to institute a mission and to dismiss two of his cabinet,	299
orders draught of a treaty with France to be prepared,	299
nominates Murray envoy to France,	300
terms of nominating message,	301
withholds from Washington his commission as General,	309
announcement to Washington of nomination of Murray,	303
refuses to change it, and finally nominates three commissioners,	306
hesitates as to hasty departure of envoys,	327
considers and decides upon instructions to envoys, and orders their departure,	329
fluctuating opinions as to French government,	330
contemplates a declaration of war against France,	361
ascribes to Hamilton loss of election in New York,	382
his tormenting passions,	383
dismisses McHenry, Secretary of War,	384
dismisses Pickering, Secretary of State,	386
appoints Dexter Secretary of War and Marshall Secretary of State,	387
to Hamilton, as to promotion of Col. Smith,	390
"his itinerant life"—indecorous reply,	391
to Madison, as to appointment of a connection to office and slur upon Washington,	392
appeals to party of Samuel Adams,	397
calumniates Federalists and Hamilton as "a British faction"—contradicts the charge,	398
tribute of to England,	399
the Pinckneys charged by him as acting under British influence,	406
frames a weak apology,	407
efforts to conciliate Federalists,	410
speech to Congress—"a navy for defensive war"—and approves fiscal policy of Federalists,	411
nominates Bayard envoy to France,	421
nominates Jay as Chief Justice, who declines,	423
approves plan to prevent election of President,	444
leaves Washington finally,	467
his mischievous course predicted,	467
Jefferson's and his own political character in history,	598

PAGE

Adams, John Q., Minister to the Hague, vi. 9
attempt in House to annul his mission to Berlin, vii. 94
unscrupulous support of embargo because proposed by Jefferson, 688
calumny by of the Federalists—overture to Jefferson—d sclaims official pretensions—is appointed by him an ambassador, 688
Adams, Charles F.—comment on Hamilton's death, vii. 408
Adams, Samuel, i. 36
connection with the cabal, 420
opposes a treasury department under one head, ii. 201
first opposes Federal Constitution, iii. 407
then supports it, 417
denounces the treaty with Great Britain, vi. 315
Addison, Judge, impeached and dismissed, vii. 761
Adet, French envoy—efforts to prevent ratification of treaty with Great Britain, vi. 220
presents written objections and instructions in part to prepare to treat, 221
states objects of France in a new treaty, but evinces no purpose to treat, 221
negotiation deferred by, 236
in concert with Gallatin, as to severance of western territory, 473
reclamations by and answers to, 475
refuses explanation of a capture of an American vessel on coast of U. S., 476
the capture justified in Democratic press, 478
announces to Secretary of State decree of France violating neutral commerce, and publishes his note, 544
reply to by Pickering published, 547
summary of reply, 548
answer by Adet, who publishes abstract of it, 551
its substance, 551
appeal in it to the people of U. S., 553
urges Jefferson to Adams as envoy, vii. 3
Algiers, negotiations as to prisoners by Jefferson and others, v. 485
truce with by England, 486
American vessels captured and explanation by England, 486
naval force proposed to be created for protection of American commerce, 487
treaty with ratified, vi. 349
prior negotiations with and donative to, 350
disclosure of negotiation with ordered—injunction of secrecy by President—injunction dissolved by House and documents published—consequent extortion by Dey, 351
Aliens, power conferred on President to remove them, vii. 156
Alien and Sedition Laws, report on constitutionality of, 278
report as to the Virginia resolu-

PAGE

Alien and Sedition Laws—tions against them by Madison, vii. 341
vindication of these laws, 344
Allegiance, to State or general government discussed, iii. 451
André Major, arrested, ii. 54
tried and hung as a spy, 65
Amendments to Constitution, provision for, iii. 267
amendments to confederation to be submitted to an assembly or assemblies chosen by people, 267
mode of amending Constitution, 336
American Constitution, suggested, i. 25
"Americanus," by Hamilton, to deter U. S. from embarking in the war, v. 500
Ames, Fisher, sustains Constitution and defends biennial elections, iii. 407
defends duration of Senate and the check of the State governments, 412
for permanent funds, iv. 7
opposes discrimination in provision for the debt, 72
his sketch of Madison, 75
urges assumption of State debts, 91
defends constitutionality of a National Bank, 238
defends Fishery bill—providing bounties, 355
denounces cabal as to seat of government, 475
to Hamilton—commending his policy, v. 111
letter depicting state of parties, 113
reference to Secretary of Treasury vindicated, 131
comment on proceedings of Congress—hostility of opposition shown toward Hamilton, Knox and Washington, 212
to Hamilton—sound state of public mind in New England produced by his measures, 371
on Jefferson's report on commercial intercourse, 473
exposes inefficiency of its policy, 519
opposes precipation into war, 523
anxiety Hamilton be envoy to England, 533
exposes slanders on Federalists of monarchical designs—also of alleged paper nobility—influence of democratic societies, vi. 129
private history of, 130
urges settlement of a plan for payment of the debt, 156
vindicates the fiscal policy, 157
answers alleged oppressiveness of taxes, 160
on success of bill for reduction of debt—and omission to provide for unsubscribed creditors, 161
remark as to "Camillus," 259
writes—Madison is disgraced, 380
speech on British treaty, 400
to Hamilton—view of political situation, 596
requests him to enter House of Representatives, 598
to Hamilton—character of Adams, vii. 400
inclines to a public exposure of Adams, 403
Amsterdam, New, incorporated, i. 6

PAGE

Apportionment of Representatives, iv. 325
bill discussed and lost, 329
new bill fixing the ratio passed in Senate, 330
cabinet opinions as to—vetoed, 334
Army, its progressive formation, i. 426
plan of new establishment, 434
half-pay granted, 452
measures completed, 458
unprovided, ii. 3
forage ordered, 4
reform of, 129
Washington's comments, 130
his views approved, 132
discontents and petition to Congress, 356
Hamilton's report thereon, 358
meeting of—anonymously called, 383
meeting of officers at Newburgh—Washington denounces proposed insubordination, 391
officers condemn violent proceedings, 393
inflammatory letters written by John Armstrong in Gates' quarters, 393
claims of, 495
advance of pay to, 529
allowances of land to, 530
reduced to eighty men, under command of a captain, iii. 84
motion to reduce it, v. 140
opposed—supported by Madison, 142
motion defeated and new appropriation bill to increase army passed, 142
resolutions for increase of, 510
Army—of Revolution—memorial for compensation of, v. 152
resolution by Gerry opposed by Col. Hartley and Boudinot, 156
rejected, 162
Army—bill to increase it—rejected by House, vi. 7
total force of—and proposed increase, 146
resolution to reduce it passes House, 393
Army to suppress insurrection in Pennsylvania—advance part to Cumberland—part to Carlisle where had been a recent riot, vi. 102
Army, Provisional—proposed and discussed, vii. 137
President empowered to organize an army, 164
Provisional army bill passed, 175
resolution to repeal act creating, rejected, 362
act authorizing disbandment passed, 367
Army of U. S. Its successive changes, vii. 246
act for better organizing, 247
"Regulations" of can only be made by authority of law, 250
reduction of, 530
Armstrong John writes Newburgh letters, ii. 393
"Aristides" essay in reply to "American" defence of Jefferson's course as to the Constitution and advice as to French debt, v. 74
Arnold, Benedict, his gallantry—ill-treatment and dissatisfaction, i. 236
gallantry at Saratoga, 311

PAGE

Arnold, Benedict—
ill-treated by Gates, i. 312
reproves him, 313
controversy with Gates, 314
urges Gates to battle, 325
wins battle of Saratoga, 327
controversy with Pennsylvania, appeal to Congress and vindication, ii. 50
charge against Reed—Washington's kindness to him, 51
appointed to command of left wing of the army and of West Point, 52
his treason discovered, 54
flies, 56
Brigadier-General in British service, 74
captures Richmond, 170
marches to Portsmouth, 171
burns New London, 261
Articles of Union proposed by Massachusetts, i. 12
Artillerists and Engineers formed into two corps, vii. 365
Asia fires on New York, i. 99
Asgill Captain, ii. 284
set at liberty by Congress, 288
Assumption of State debts, iv. 50-59
justice and obligation of, 85
discussion of, 86
carried in House, 96
recommitted and re-discussed, 100
rejected, 102
motives to assumption, 103
renewed discussion of, 132
Hamilton's policy vindicated, 165
additional assumption proposed and defeated, 382
"Aurora, The, charges Washington with assassination of a French herald, vii. 13
defends rejection of Pinckney, 15
an instrument of French policy, 160

B

Bank first proposed by Hamilton, i. 574
plan of by Robert Morris, 578
Bank of North America established, ii. 227
Banks, hostility to, iii. 122
Bank, National, report by Hamilton, iv. 221
plan of, 226
amendments to proposed, 230
bill to incorporate—passes Senate, 231
discussed in House, 231
constitutionality of, 233-237
bill passes House, 242
cabinet opinions in relation to, 242
act incorporating signed by Washington, 257
proposal to authorize its repeal in 1802—defeated, 257
expediency of considered, 258
history of—its utility (second national incorporated), 264
large and prompt subscriptions to, 286
opposition to proceeding from designs as to seat of government, 483
attempts to limit duration of charter—as connected with residence act, 483
Jefferson's final approbation of, 488
Monroe voted against and finally approves national bank, 489
judicial approbation of, 489

PAGE

Bank, National—
Madison's approbation of, iv. 480
Bank of U. S. payment of loan to, resisted but part payment compelled by Senate, v. 209
opposed by Madison, 210
motion to amend charter of, 483
bill to pay instalment due on a loan from—opposed but passed, 594
sale of part of stock held by U. S. authorized, vi. 415
Gallatin opposes payment of debt due to Bank, in violation of contract, 421
sale of part of bank stock held by U. S., 587
Bank, Manhattan, its influence in electing Jefferson and Burr, vii. 635
State bank, corruptly obtained charter and political abuses, 636
Merchants' bank—organized by Hamilton, 637
act to restrain unincorporated banking institutions passed and finally repealed, 638, 639
branch bank of U. S. established in New Orleans, 662
Baldwin as to call for papers in negotiation with Britain, vi. 355
on treaty powers in Constitution, 366
Ballot, election by, i. 33
Bankrupt act repealed—causes of its repeal, vii. 673
Barras, his reply to Monroe, vii. 12
Batavian Republic insists U. S. cause their flag to be protected, and urges to make common cause with France, vi. 479
Bayard, James A. to Hamilton—character of John Adams, vii. 402
declines embassy to France, 422
to Hamilton—views of Federalists as to Burr and his own hesitations, 452
narrative of votes in House on election of President—he votes for Jefferson, 461
speech of, on judiciary act exposing corruptions to elect Jefferson, 467
urges reduction of duty on salt, 523
opposes repeal of judiciary act and details corruptions of Jefferson, 560
approves Hamilton's proposed amendments of Constitution, 578
view of trial of Burr, 680
Bennington, battle of, i. 305
Bills of credit granted by New York and sanctioned by Parliament, i. 30, 31
Binney, Horace, approval of Hamilton's Cabinet opinion as to constitutionality of National bank, iv. 489
results stated, of his inquiry into formation of Farewell address, vi. 533
Bland, Col., ii. 332
Blount, resolutions by, as to treaty power, vi. 382
project on Spanish dominions, vii. 60
Bonaparte—capture of Mantua—occupies Trieste—overruns Corinthia—treaty of Leoben, vii. 85
sails from Toulon—apprehensions as to his destination, 205
first consul of France, 367

PAGE

Bonaparte—
appoints three commissioners to treat with the U. S., vii. 367
concludes treaty with U. S., 416
Boston votes provision of arms by people, i. 27
soldiers fire on people—compelled to depart, 36
massacre, 36
made rendezvous of Royal troops, 37
port bill opposed by Fox and Burke, 51
despatches circular letters to induce non-importation, 52
evacuated by British, 106
resolutions of, as to treaty with Great Britain presented to President, vi. 237
dignified reply of Washington, 237
Boudinot, Col., against discrimination of public creditors, iv. 80
speech on claim of officers of old army for compensation, v. 157
to Hamilton as to official inquiry, vi. 33
Bowdoin, James, transmits a plan for a constitution of Massachusetts, ii. 14
his liberal views—favors increase of powers of Congress—circular letter of—letter to delegates in Congress, iii. 134–138
reply to, 146
sustains the Constitution, 415
Bradford—reviews insurgent battalions, vi. 91
reads intercepted letters and excites fury of people, 92
appointed general of insurgents, 92
urges meeting at Parkinson's ferry, 93
opposes terms of commissioners, and points to force, 95
Bradford, William, appointed attorney-general in place of Randolph, v. 441
Breckenridge—notice by, of inquiry as to alterations in Judiciary department, vii. 549
moves repeal of Judiciary act, 550
British force—loss of, i. 459
British captures, clamor against, v. 313
British instructions—result of a convention with Russia—vindicated by Hammond and by British Government, v. 332, 333
their policy condemned by Denmark, 333
Buck—opposes call for papers in negotiation with Great Britain, vi. 355
Bunker's Hill, battle of, i. 93
Burgoyne's advance, i. 230
encamps on Hudson, 302
battle of Bennington, 305
march along Hudson, 309
defeat at Saratoga, 314–327
retreats up Hudson, 328
surrenders, 331
conduct of Schuyler, 333
Burke, Edmund, agent of New York, i. 33
Burr, Aaron, withdraws name as opponent of constitution, iii. 454
elected to Senate, iv. 505
hostility to Hamilton, 505
change of politics—rewarded by office, 506

PAGE

Burr, Aaron—
seeks nomination as Governor of New York—Hamilton's influence solicited and refused, v. 25
candidate for Vice-Presidency, 89
appointed by Clinton Judge of Supreme Court of State of New York, 92
opposes special embassy to London and objects to appointment as envoy of a Judge of Supreme Court of U. S. 567
favored by Madison as envoy to France, vi. 9
moves to expunge clause in President's speech as to Western insurrection, defeated, 116
efforts to defeat Hamilton's plan for reduction of debt, 182
moves postponement of consideration of treaty with Great Britain, 215
effort to nominate him Vice-President, 540
appointed to prepare a memorial against an order of England, urging hostilities, vii. 130
contemplated as Quartermaster-General, 203
intrigues in legislature of New York, 314
active intrigues of, to secure election in city of New York, 373
forms a mongrel ticket for legislature, 374
is elected member from interior county, 375
desperate character of, stated by Hamilton, 402
copy of Hamilton's exposure of Adams, surreptitiously obtained and parts published, 408
reply to cajoling letter of Jefferson, 430
attempt to establish a monarchy west of Alleghanies, 678
arrest and trial for treason, 679
proscribed by Jefferson, 756
controversy with Clintonians, 759
denies imputed intrigues, 760
overture to Jefferson repulsed, 764
nominated as Governor of New York, 765
his successive turpitudes, 766
interviews with, for severance of the Union, approved by Burr, 775
intrigue with for dissolving the Union detailed, 781
his political prostration, 798
proscribed by Jefferson, 798
approaching penury—solicits aid through Hamilton, 802
caucus resolve he should challenge Hamilton, 803
practices with pistols, 804
correspondence with and challenge to Hamilton, 804
demeanor at dinner of Cincinnati, 821
shoots Hamilton, 827
conduct after duel, 834
public commotion, 834
Burr flies, 835

C

Cabal, against Washington, called "The Monster Party," i. 370-373
confers on Conway the place of Inspector-General, 380

PAGE

Cabal—
committee of, to reorganize the army, i. 390
renews its opposition to Washington, ii. 115
its false opinions and injurious influences, 129
its apprehended power, 137
Cabot, George, advocates the right of the people to elect their representatives, iii. 411
calls Hamilton "The little Lion," v. 544
appointed Secretary of the Navy, vii. 137
unites with Ames and Higginson, advocating Hamilton's prior claim to superior rank, 197
points to Adams' incaution, 198
to Hamilton as to vindication of Federalists from calumnies of Adams, 403
Adams' abandonment of principles of Federalists, 404
Callender publishes attack upon Hamilton, vii. 80
outlawed from Scotland, convicted under Sedition Act, 339
announces "The Prospect before us," 339
associated with State printer of Virginia, 339
demands office, menacing Jefferson, 479
Sentence upon remitted by Jefferson, 487
Fine imposed remitted, 585
Exposures of Jefferson and Madison—is drowned, 592
Canada, acquisition of, i. 11
projected expedition to, 501
plan for conquest of, 504
Washington's opinion of this plan, 505
Congress approves the expedition to, 510
expedition to finally deferred, 515
Proclamation by La Fayette, ii. 21
attempt of Adet to gain the two provinces, vii. 58
arms and tents shipped from France, 59
plot discovered and McLean hung, 59
Canvassers of New York election, v. 27
their decision for Clinton controverted, 28
Hamilton urges moderation in New York, 29
decision of approved by Legislature of New York, 31
Carrington, Colonel, urges Hamilton's continuance in office, v. 207, 290
to Hamilton, on result of official inquiry, vi. 34
as to course of Virginia in respect to insurrection, 83
Southern politics have a tendency to Disunion, 142
Carroll, Charles, contemplated as successor in Presidency to Washington, v. 59
Census, Decennial, established, iii. 325
Charleston capitulates, ii. 13
Chatham, Earl of, urges recall of troops—introduces conciliatory bill in Parliament—is defeated, i. 85
Choate as to taxing power of Constitution, iii. 414
Cincinnati, Society of — clamor against, iii. 142

PAGE

Cincinnati, Society of—
proposed alteration of its constitution, iii. 123
Circular to collectors to preserve Neutrality—three rules proposed by Randolph, v. 324
Hamilton proposes to prohibit arming of French privateers within the U. S., also augmentation of arms, 324
Jefferson's opinion, 325
Rules—excepting two—prepared by Hamilton and concurred in, 325
these rules derived from Treaties of U. S. with France and Sweden, 326
Circular to merchants as to injuries to Commerce, 327
Clarke, General, encamps a lawless body within Indian limits, proposing to form there an Independent Government, vi. 54
Hamilton's letter to Georgia to suppress this expedition, 55
dislodged and his forts demolished, 58
Clergy address the militia, i. 88
Synods of New York and Pennsylvania—Pastoral letters from, 88
Clinton, Dewitt, opposes armed occupation of New Orleans, vii. 631
duel with Swartwout, 759
Clinton, George—sketch of, i. 77
his opinion of New England troops, 254
urges increase of power in General Government, ii. 110
intolerant counsels of, iii. 29
President of New York Convention, 483
reelection as Governor opposed—reelected, v. 26
feeble support of as Vice-President by partisans of Jefferson, 88
unanimously nominated as Vice-President and elected, vii. 766
Clinton, Sir Henry, arrives at New York, i. 123
appointed commander-in-chief, 459
Instructions to, 460
Battle of Monmouth—embarks for New York, 477
plan to capture him, dissuaded by Hamilton and relinquished, 528
sails for Savannah, ii. 10
Clymer, George, ii. 332
Collot, tour under Adet's orders to make a military survey of Western Territory of U. S., vi. 473
flies from U. S., vii. 160
Commerce, Chamber of, at New York, approves measures of Neutrality, v. 354
petitions Congress against repeal of Judiciary Act, vii. 553
Commercial policy of U. S. iii. 52
Instructions as to Treaties, 55
policy of England—Rox and Pitt, 57
final instructions adopted, 60
countervailing acts—Virginia, 128
New Jersey, 130
Connecticut, 131
Massachusetts, 132
New Hampshire, 147
Rhode Island, 147
New York, 149
S. Carolina, N. Carolina, Georgia, 151
Commercial intercourse, bill to interdict with G. Britain defeated, vi. 7

PAGE

Commission to negotiate a Peace—Adams, Jay, &c., ii. 445
Committee of compromise appointed, iii. 320
its report considered, 321
of detail appointed, 327
of 1781 on powers of Confederation, 328
Standing, of House—Reports of—their party complexion and imperfect character, vii. 575
Compensation of President and Vice-President, iv. 20
Comptroller of Treasury, Tench Coxe urged by Jefferson and Madison—Oliver Wolcott appointed at Hamilton's instance, 514
charged with immediate superintendence of collection of duties of imports and tonnage, v. 108
Conciliatory bills by Parliament, i. 453
rejected by Congress, 454
Confederation, articles of—amendments proposed by Congress, ii. 229
Confidential Cabinet paper disclosed and treacherously published, &c. vi. 481
another confidential paper published, 482
Connecticut appoints a day of humiliation and prayer, i. 53
directs an inventory of arms and military stores, 54
organizes troops and sends donations to Boston, 54
two regiments of, revolt and are reduced to subjection, ii. 32
how settled, iii. 391
towns, religious institutions—independent character, great support of Revolution, a creditor State, her convention debates, 395
ratifies the Constitution of U. S., 399
rejects amendment of Constitution designating votes for President and Vice-President, vii. 799
publications in favoring Burr, 800
division of U. S. predicted in, 800
Congress, proposed, i. 20
first Congress meet, 21
continental organized, its proceedings, 58
its proceedings canvassed, 63
view of controversy, 68
second Continental meet, 89
military preparations ordered by, 90
establish a general post, 90
take measures for a negotiation with England, 90
declares causes of taking up arms, 93
second address to British people, 93
second address to King, 93
calls on people to form a militia, 94
protection of trade, 94
non-importation passed, 94
orders fitting out armed vessels by colonies, 103
institution of admiralty courts—regulations for a navy—recommends N. Hampshire to form a government—directs another emission of bills of credit—authorizes Maryland, North Carolina, and Virginia to export produce, except to Great Britain and her dependencies, 104
authorizes fitting out of private-

PAGE

Congress—
cruisers, fortification of harbors, a commerce, except with Great Britain, of certain articles—prohibits importation of slaves, i. 109
recommends colonies, each to form a government, 115
resolutions virtually of Independence, 116
establishes a Board of War, 117
declares aid to the British, treason, 118
declares Independence, 118
its lowered character, 422
Hamilton's opinion of, 422
as to Conciliatory bills of Parliament, requires acknowledgment of Independence, or withdrawal of forces, 462
its diminished influence caused by want of resources, ii. 78
its foreign and domestic policy, iii. 51
accepts resignation of Washington, 70
elects Committee of States, 84
organizes a court to settle territorial controversies, 85
ordinance as to Western territory, 85
requisition on the States, 86
policy as to navigation of Mississipi, 101
financial embarrassments of, iii. 169
calls for establishment of a general revenue, 171
committees of conference with State legislatures, 177
authorizes a legionary corps, 178
effort to prevent its recommendation of the Constitution to State Conventions defeated, 373
opinions as to convening, v. 380
Democratic majority in House of Representatives, 414
Jefferson's—its low character, vii. 675
Coins Foreign, act fixing value of, v. 211
Consolidation of Government, deprecated, iii. 465
Conspiracy of Jefferson, Madison, and Randolph against Washington's administration, vi. 1
Constitution of U. S. signed in convention, iii. 338
amendments of, iv. 22, 24
of U. S.; motion to amend, rendering ineligible to Congress persons holding office or stock in a bank chartered by U. S., defeated, v. 482
motion to amend so as to declare Government shall not have power to enlarge or abridge the limits fixed by the definitive treaty with Great Britain, defeated, 484
motion to amend, declaring Judicial power of U. S. shall not extend to suits by citizens of U. S. or of a foreign State against a State, carried, 484
two amendments proposed by Hamilton—one, designating persons to be voted for as President and Vice-President, vii. 567
the other for choice of electors by the people—first passes, the second postponed, 674
Continental bills, proposals to redeem fail—misstatement corrected, ii. 353
clause to fund, iv. 131

PAGE

Continentalist, The, by Hamilton, ii. 231
Contraband, view of, by Hamilton, vi. 275
Convention at Albany, i. 11
of States, ii. 80
Virginia does not attend, 81
a permanent union urged, 83
to give vigor to the governing powers—delegates to by New York, 111
at Hartford, 197
resolutions to invigorate the Government, 198
a continental Judicature proposed, 199
general meets, iii. 255
secrecy of debates ordered, 256
journal of mutilated, iv. 464
Jefferson's reference thereto—evidence of mutilation, 465
with France, ratified conditionally by U. S. vii. 421
Conway appointed inspector-general, i. 370
letter of to Washington, 389
insulting letter of to Washington, 389
resigns, resignation accepted, 410
duel with Cadwallader—penitent letter to Washington—leaves U. S. 411
Copyrights to authors, ii. 545
Cornwallis, defeats Gates at Camden, ii. 121
enters Virginia, 245
detaches Simcoe and Tarleton, 249
defeats Wayne and hastens to Portsmouth, 253
fortifies York and Gloucester, 257
besieged, resolves to cross York River, but abandons his design and surrenders, 273
Corresponding committees, origin of, i. 17
appointed, 21, 28
secret committee of appointed, ii. 406
Courts of United States, organization of—bill for better organizing, vii. 412
Cowpens, battle of, ii. 167
Credit, public—its progress, iv. 201
Creeks, treaty with, iv. 203
prepare for war, vi. 53
Criminal code established, iv. 173
Crown Point taken by the Americans, i. 89
Currency, metallic, insufficiency of, iv. 268
coinage urged by Hamilton, 269
report on by Robert Morris, 269
money unit and decimal system established, 270
uniform recommended, 271
report on mint, 271
Jefferson on the currency, 278

D

Dallas, George, appointed District Attorney of Pennsylvania, vii. 504
Dana—Vergennes objects to his asking a public acknowledgment by Russia, ii. 457
is restrained from so doing, 458
apprises Congress—is authorized to enter into a limited treaty with Russia, 459
his powers not renewed, 460
Davie attacks Tarleton at Mecklenburgh, ii. 158

PAGE

Dayton, Col., on Jefferson's report on commercial intercourse, v. 468
proposes to substitute for report of Committee on Ways and Means Hamilton's prior proposed duties, 580
chosen Speaker of House, vi. 325
Deane, Silas, secret envoy to France, ii. 409
recalled, 419
Dearborn, resolution by calling on the President to lay a treaty with Miamis before the House of Representatives, vi. 346
appointed Secretary at War, vii. 485
Debates in Congress open—again proposed and rejected, ii. 528
Debts, British, declared recoverable in Virginia and clamor raised, v. 312
Debt to France—anticipation of asked, v. 590
now loan—House pass bill that it may be appropriated to French debt—Senate object and bill defeated, 590
Hamilton as to anticipation, 597
Fauchette dissatisfied, 597
Debt, domestic, time of subscribing to extended, v. 211
Debt, public, act making further provision for payment of, iv. 149
act making provision for reduction of debt, 149
act for settlement of accounts between U. S. and States of Union, 151
amount extinguished by sinking fund, 345
amount of debt funded and unfunded, 371
additional assumption defeated, 382
bill for redemption of whole debt, in fact, an act for the continuance of the debt, vii. 539
Debt of United States, iv. 45
subdivisions and amount of, 48
Hamilton's report on debt discussed, 70
discrimination between creditors opposed, 71
Madison advocate of, 74
impolicy and injustice of exposed, 81
discrimination rejected, 84
provisions for debt discussed, 96
irredeemable quality considered, 97
power to borrow confided to President, 131
revenue provided to pay debt to continue until debt discharged, 139
act to fund and sink public debt considered, 143
loan authorized and revenue pledged, 143
De Grasse arrives in Chesapeake, ii. 259
visited by Washington—proposes to go to sea—disuaded, 262
De Yrugo—reclamations by on U. S. vii. 63
answer of Pickering, 64
Delaware, State of, first adopts the Constitution, iii. 374
Democrats ascendant in Southern States, v. 496
efforts to gain New England, 496
Jefferson's reports having this object, 497
attacks on Dexter and Ames, 498
policy of democratic leaders and of France—coincidence between, 499
Democratic party—systematic efforts of, to disturb public mind, vi. 42

PAGE

Democratic party—
address of democratic society, vi. 48
denounce Washington, 63
Democratic societies vindicated by Madison, 121
denounced by Washington, 122
leaders of societies leaders of riots, 126
alarm as to exposure of corrupt intercourse with France, and Washington's alienation, 295
policy of party arranged at residence of Jefferson—Burr present, 325
congratulations to France on her victories, 330
policy to array House of Representatives against President, 372
motive of, in call on President for papers in negotiation with Great Britain, 375
Democratic presses—violent opposition to measures of defence—eulogize Adams — calumniate Hamilton, vii. 25
democratic policy as shown in proceedings of House of Representatives, 32
disregard of violations by France of neutral rights, and rejoicings at prospect of invasion of England, 103
resolution against arming merchant vessels proposed, 160
recruiting officers treated with indignity, 311
clamors for peace and State rights, 369
Democratic proscriptions, vii. 761
Departments, Executive, iv. 10
War department, 15
Treasury department, 16
Department of Foreign Affairs, 20
D'Estaing, Count—repairs to Boston, i. 490
his respect for Hamilton, 498
attacks Savannah—wounded, 502
De Rayneval—envoy from France—public audience to, i. 504
Dexter, Samuel, on Jefferson's report on commercial intercourse, v. 471
reply to Madison's defence of democratic societies, vi. 132
moves that no alien, asking naturalization, shall hold a slave, 138
address of to Charlestown, in support of treaty, 237
appointed Secretary at War, vii. 387
Dictator, project of, ii. 191
Diplomatic establishment, iv. 173
attempt to reduce provision for it discussed and finally rejected, vii. 94-97
Direct tax vindicated by Findley—opposition alarmed, vi. 166
Direct taxes, a plan ordered to be prepared by Secretary of Treasury, 333
Dismemberment of Union, vii. 771
Hamilton's fear of, 771
suggested in Connecticut, 772
opinions in Kentucky and Virginia, 773
intrigues to effect it, 773
hostility to Southern domination, 774
purchase of Louisiana urged as a ground of separation, 775
subversion of, foretold by Griswold, 776
approved by him, 781

PAGE

Dismemberment of Union—
letter detailing intrigue with Burr and project to dissolve Union, vii. 781
amendment designating candidates for President and Vice-President denounced, 787
scheme of dissolution disclosed to Jefferson, 788
Dissenters, i. 34
Donop, Count—gallantry and death, i. 300
Dunmore Governor of New York, i. 38
transferred to Virginia, 38
Duplessis—gallantry of, i. 362
Dupont—de Nemours, vii. 608
Du Portail ordered to Boston to plan and in charge of fortifications, i. 502
Dutch Colonists of New York, i. 80
Dutch West India Company, i. 3
Duties on glass, tea, &c., imposed by Parliament, i. 26
Duties, Discriminating, iv. 2, 4
rejected by Senate and defeated, 7
act for collection of passed, 10
act to provide more effectually for collection of duties, 166
duties upon liquors and stills, increase of proposed, 208
system of collection, 283
increased duties imposed, 396
discriminating tonnage duties urged, 397
duties made permanent, 398
Duties, Collection act amended, v. 211
additional new duties proposed, 579
Hamilton's policy departed from, 580
his previously proposed duties substituted, 581
new report presented—and after much opposition in House and Senate new and additional duties passed, 589
act passed augmenting customs, 590
another taxing property sold at auction, 590
another taxing licenses for sale of wines and foreign distilled liquors, 590
another levying duties upon carriages for conveyance of persons, 590
snuff and sugar act, 590
Duties countervailing repealed by Great Britain—not reciprocated by U. S., vii. 603

E

East India Company ships teas to American colonies, i. 49
Election of New York delegates to Congress, i. 54–56
Elsworth, Oliver, as to finance, ii. 76–383
advocate of Constitution, iii. 395
resolution in Senate providing for State debts, iv. 136
appointed Chief-Justice, vi. 423
envoy to France, vii. 306
resigns seat on bench, 422
Embargo of shipping at Philadelphia, i. 88
Embargo defeated, v. 520
of thirty days authorized, 521
nations in treaty excepted from its operation at instance of French Embassador, 559
exception stricken out by Senate and bill passed, 566

PAGE

Embargo—
enacted at Jefferson's instance, vii. 688
enforcing act passed, 690
embargo repealed, 691
Emission of bills of credit, i. 92
measures to provide for, 94
England and France, policy of each as to America, treaty of Aix-la-Chapelle, ii. 401
war of '56—family compact, France and Spain 402
seeks to open a negotiation with Franklin—it fails, 421
England, proposed treaty of commerce with, iii. 52
her commercial policy toward U. S. — Fox — Pitt — favor open trade, 58
temporary regulations authorized, 58
British proclamations, 59
hostility to her system in U. S., and prohibitory regulations proposed, 107
her policy defended and attacked, 109
joint commission to, fails, 110
charges violations of treaty by, 114
causes of her discontent, 117
restrictive proclamations of, 128
revolution of—its effects, iv. 543
hostility continuing of United States to England, 559
English jealousy of U. S., dislike of republican institutions, 560
revocation of power to treat with, at Madison's instance, 561
Virginia as to collection of British debts, 562
submits question as to fulfilment of treaty with England to her own executive, 562
inquiry by Privy Council as to state of commerce and navigation of U. S., its jurisprudence, treaties, and revenue acts, 562
report of Lord Hawkesbury, 563
message from Pitt to Hamilton stating anxiety of Great Britain for strict amity with U. S. and promise to send an envoy, 564
Hammond accredited to U. S., 564
proposed negotiation of with U. S. defeated by Jefferson, v. 18
hostility toward cherished by opposition, 215
imputed designs on western country, 221
"additional instructions" violative of neutral commerce, 361
seizure and blockade authorized by, 361
assurances given to of compensation for French prizes in ports of U. S., 373
character and scope of her "additional instructions"—general irritation produced by, 505–506
captures by in West Indies, 506
resolutions to prohibit commercial intercourse with, 529
these resolutions laid on table, 531
despatches from England revoking "additional instructions" and limiting past effect, 531
resolution for non-intercourse pressed to defeat mission to England, 539
Jay appointed special envoy, 554

PAGE

England—
conciliatory despatches from England, v. 556
advices of her renewal of order for seizure of provisions going to French ports, vi. 229
attempt of a British naval officer to intercept French envoy in an American vessel in waters of U. S., 284
England & France ask prohibition by U. S. as to privateers under Russian colors being fitted or admitted into ports of U. S., 416
averse to acquisition of Louisiana by France, vi. 646
annunciation to Parliament of decision to take precautionary measures against the military preparations in France and Holland, 647
her purpose, in case of war, to occupy New Orleans, and hold it for U. S., 649
her ultimatum communicated to France, 649
orders in Council, 687
treaty with suffered to expire, 671
new treaty with negotiated and rejected by Jefferson without consulting the Senate, 684
sine qua non—required by Jefferson, 684
fires into the frigate Chesapeake, 685
interdicted the American waters, 685
Excise offices of inspection frustrated, vi. 65
special sessions of circuit courts to be held in Pennsylvania, 66
violence in Fayette County 66
concurrent jurisdiction as to Excise law conferred on State courts, 67
Mingo Creek Association secretly formed, 67
Marshal of District fired upon, 67
house of inspector attacked, 68
house burned and troops compelled to surrender, 68
one officer killed, 68
Marshal seized, 68
convention of insurgents called at Parkinson's Ferry, 69
Hamilton's opinion—if judge sanctioned it, militia be called out to enforce the law, 69
proposes a draft of 12,000 men, 69
insurrection intended to produce a general explosion, 72
requisition for militia, 78
indemnity for injuries by insurgents—opposed by Nicholas but ultimately passed. 135
Excise law, careful modifications of, v. 94
opposition by Gallatin, 95
supervisors—persons intimidated from accepting appointments, 96
address explanatory of Excise act, 96
a captain in army menaced, 97
meeting of discontented at Pittsburg and violent resolutions of, 97
amended act to collect excise postponed by opposition, 212
Excise on stills and distillations, iv. 56
increase of proposed, 208
plan of collecting, 209

PAGE

Excise—
Excise policy discussed, iv. 218
report by Hamilton on difficulties in collection, and Excise system vindicated, 402
new excise act passed, 406
concerted clamor against, 481
opposition to levy of, by Findley and Gallatin in Pennsylvania, 481
opposition first approve, then denounce the Excise, 482
opposition in Pennsylvania, 509
meeting at Redstone—violent resolutions by Gallatin, 510
meeting at Pittsburg, 511
collector of revenue tarred and feathered, 511
witnesses seized by banditti, 512
Exportations only in home bottoms approved by Jefferson, iv. 3
Episcopate, American, proposed, i. 24
Eutaw, battle of, ii. 276
Executive Departments—each under a single head, established, ii. 200
Executive to be chosen by electors chosen by people, iii. 335
Executive—power discussed, iv. 14
right to delegate power to discussed, v. 527

F

Farewell address of Washington, history of its formation, vi. 492–534
Binney, Horace, inquiry into formation of Farewell address, 533
denounced in Virginia—and pamphlet circulated imputing to it a false purpose, 537
Farmers' letters, i. 26
Fauchet refuses money to Randolph, vi. 72
his opinion of Mifflin and of Dallas, 82
dissatisfaction with Randolph and with treaty with Great Britain, 216
intercepted despatch as to Randolph, 246
leaves U. S. having given a certificate to Randolph as to imputed corruption, 301
contents of his intercepted despatch, 303
states a revolution in train, 304
corrupt overtures by Randolph, 305
references to Madison and Monroe, 306
substance of his despatches, 306
Federal system proposed in Pennsylvania, i. 12
Federalist, The—advocates of Constitution called Federalists, iii. 447
Federal party, iv. 418
creditors—friends of Constitution, 420
Fees proposed on transfer of public securities—Mercer advocates taxing public funds, v. 150
resisted and abandoned, 152
Ferguson, Col., killed, ii. 161
Finance—commutation of debt, ii. 75
new emission bills, 76
call for specific supplies, 77
issue of paper discontinued by Congress, 207
calls for specie to pay army, 208
public debts to be paid in specie, 210

PAGE

Finance—
issue of specie certificates authorized, ii. 210
tenders of bills below specie value to be abolished, 211
report as to import, specific, and ad valorem duties, 517
supplementary funds and assumption of certain State debts, 518
contribution according to number of inhabitants and triennial census, 518
proposed as a compact irrevocable, 519
Hamilton's report on, 520
Findley and Reddick interview with Washington to induce him not to advance the army, vi. 104
Findley submits to government, elected to Congress, 103
calumny of Findley against Hamilton, 105
urges submission and support of Excise law, 105
points to a direct tax, 156
Fish, Nicholas, i. 47
joins volunteer corps, 99
at surrender of Yorktown, ii. 68
Fisheries, 414, 423, 425
common right of fishing to be insisted upon, 426
discussion as to in negotiation for treaty of peace, 433
memorial of Massachusetts, iv. 348
report by Jefferson, 349
act providing bounties discussed, 351
bill passed, 362
Fleury, Col.—gallant conduct at Stony Point, i. 550
Floridas, effort to persuade France to induce cession of by Spain, vii. 685
sum appropriated to purchase, bill modified leaving use of money discretionary by Jefferson, 687
Foreign affairs, plan of department, ii. 544
Foreign relations of U. S. reviewed, iv. 181
Forest, Col., on Jefferson's report—commercial intercourse, v. 467
*Fort Mifflin, i. 298
besieged and abandoned to enemy, 361
Forts Montgomery and Clinton captured by British, i. 321
Fox urges repeal of taxes on imports into British colonies, i. 51
France—Turgot advises aid to colonies, i. 110
negotiation with begun, 115
treaties of alliance and commerce with U. S. concluded, 453
celebrated by army, 455
rival policy with England as to American possessions—treaty of Aix-la-Chapelle, ii. 401
war of '56 and family compact with Spain, 402
treaty with United States—plan of adopted by Congress, 410
secret supplies furnished and commerce permitted with United States—double policy, 411
her policy to retain control of negotiations of United States with other powers, 422
want of confidence in U. S.—hostile menace by, iii. 90

PAGE

France—
irritation of French residents in U. S., iii. 91
proposal to purchase debt to France, 91
encouraged by Jefferson, 92
reproval by Congress, 95
promises repeal of monopolies and of duties, 95
plan of consular convention, 97
modified and ratified, 99
celebrates conclusion of treaties between England and United States, iii. 1
opposed to a more efficient government of United States, 559
announces her Constitution to President, v. 21
resolution approving it sustained by Madison, 21
opposed by Federalists—and approval avoided by Washington, 22
aids granted to St. Domingo, 22
applies for payment on account of debt due to her, 188
Jefferson's misstatement, 189
Hamilton's view—cabinet opinions, 192
decision in accordance with Hamilton, 192
Jacobinism, its character and purposes, 216
sympathy with it encouraged, 217
trial and murder of Louis XVI. commended, 222
declaration of war against England, 224
policy of stated, 224
French prizes arrive at Philadelphia, 249
French prizes and privateers, 243
French seamen in Charleston resolved to bear arms in public streets, 269
French privateer detained in New York, 274
an American vessel captured by a French privateer—released by Hamilton, 360
a French prize seized by a body of marines from "La Concorde," 360
"Feast of Reason" in Paris, 356
passes a navigation act hostile to neutrals, 499
debt to adjusted and extinguished, vi. 319
a French standard presented to U. S., 329
Executive Directory established, 455
announces determination to dissolve the alliance with U. S., 457
decree that neutral vessels shall be treated as they shall suffer the English to treat them, 462
appoints Mangourit successor to Adet—appointment rescinded at Monroe's instance, 463
Adet professes ignorance of decree against neutrals, 463
declaration to Monroe no such decree existed, 463
announciation of suspension of Adet's functions and existence of the hostile decree against neutrals, 464
reclamations by on U. S.—answers to, 476

F

PAGE

France—
French privateer captures an American vessel near coast of U. S. vi. 476
Adet refuses an explanation, 476
Military despotism established, 480
influence with Democracy increased by her great successes. 540
depredations on American commerce, 599
The Directory orders British Minister from Paris, vii. 5
announces to Monroe no minister from U. S. acknowledged until redress from her, 6
United States vindicated in Council of Five Hundred, 14
violent decree of as to neutrals, 32
contemplates acquisition of Louisiana and Florida, 58
military successes of, 85
treaty of Leoben, 85
conferences at Lisle, 87
revolution in France, 88
new constitution of, 88
confidence of Directory in the influence of their agents in U. S., and prefer Madison as envoy, 89
delusive negotiations with England broken off, 99
treaty of Campo Formio, 100
intention to invade England proclaimed, 100
treaty with Portugal declared void, 100
Jefferson's language to Mazzei adopted in "Moniteur," 100
decree violative of neutral rights, 101
envoys, audience to refused and intrigues to obtain money, 120
a masked loan demanded and other contributions, 121
attempted extortions enforced by avowal of French party in U. S., 123
instructions to envoys, 153
experiments on Gerry's weakness, 206
another revolution in, 320
convention with concluded, 412
terms of convention, 415
ratified, 421
Franklin, Benjamin, i. 14
plan of permanent Union, 86
returns to U. S., 87
elected envoy to France, 594
his policy at Paris, ii. 419
cautionary instructions to, 420
motion for his recall defeated, 421
instructions to, 425
as to terms of peace, 465
vindicates conduct of commissioners as to treaty of peace, 485
preferred as Vice-President by France, iii. 559
decease of and honor by National Assembly of France, iv. 266
letter drawn by Hamilton to National Assembly, 266
Francis, a dismissed clerk from Treasury department, petitions Congress to consider a charge of misconduct by Hamilton, v. 424
report on by committee, fully approving Hamilton's conduct, 426
French fleet arrives on coast of United States, i. 484
French auxiliary army, ii. 15

4

PAGE

French fleet arrives at Newport, under command of De Ternay, ii. 35
French revolution, its influence on U. S., iv. 542
French theorists, 545
artificial condition of France, 546
French clergy—French nobility, 546
French litteratours, 547
total change of system, 548
parliament of France, 548
French decrees as to neutral commerce, v. 361
circular to French consuls as to violating neutrality, 373
exequatur of French consul at Boston revoked, 373
French decree of May, 1793, violative of neutral rights considered, 384
twice revoked and twice revived, 385
avowed by France as an act of reprisal against England, 386
letter of Committee of Public Safety, announcing victories of France and good will to U. S., 561
reply resolved—amendment congratulating France and approving her system rejected, 569
Freneau, editor of "National Gazette," constituted agent to receive subscriptions in aid of France, v. 252
"Friends of Equality" Society in Philadelphia, v. 220
Funds permanent, to be collected by Congress, proposed by Hamilton, ii. 360
necessity of declared by Congress, 378
Fund sinking, proposition to apply it to discharge of debt, v. 145

G

Gallatin, Albert, opposes excise, iv. 481
resolutions of, 510
secretary of meeting at Pittsburg, v. 97
violent resolutions of ascribed to Gallatin, 98
elected to Senate of U. S., 480
his election declared void, 481
secretary of meeting at Parkinson's Ferry, vi. 93
offensive resolution modified at his instance, 94
urges submission, and proposes a secret ballot—ballot taken—majority for submission, 96
presides at meeting of Fayette County, and amnesty accepted, 97
adopts declaration of submission, 103
elected to Congress, 103
secretary of meeting which pledged submission and support of excise law, 106
Hamilton states he saved Gallatin's life, 111
moves and carries appointment of Committee of Ways and Means, 328
appointed chairman of, 328
intimates a right to withhold the appropriation, 332
moves to expunge appropriation for the mint—is defeated, 332
supports call for papers relating to negotiation with Great Britain, 356

PAGE

Gallatin, Albert—
speech on treaty power, vi. 358
subsequent contradiction of his own views, 360
prior commitment as to treaty power, 368
supports reference to a committee of—message of President requiring papers, 381
moves to reduce navy to one frigate, 392
speech on finance to prove increase of debt during Hamilton's official term, 420
his statements disproved, 421
in concert with Adet as to severance of Western territory, 473
remarks in answer to President's speech—objects to banking and funding systems, 563
his "View of the Finances" disproved, 589
self-contradiction as to specially subdivided appropriations, 590
opposes demand of compensation by France for spoliations, and votes for it, vii. 36
opposes naval preparations, 51
supports reduction of diplomatic establishment, 95
opposes publication of despatches from envoys, 133
averse to a navy, 242
supports criminating resolution as to Robins, 364
appointed Secretary of Treasury, 505
report of—repeal of internal revenue, 519
states the Treasury the only perfectly organized department, 537
fully approves Hamilton's fiscal system, 537
loss of money by mismanagement, 601
Gallatin James, statement in a memoir by, on western insurrection, corrected, vi. 111
Gates ordered to Canada, i. 225
commendations of, by R. H. Lee and John Adams, 225
claims command of Northern department—Congress interposes, 226
improper letter to Washington—his reply, 227
Gerry to Gates—ordered to Ticonderoga—repairs to Congress, 228
his conduct there, 229
Gates chosen to command in place of Schuyler, 253
ill-treatment of Arnold, 312
birth and progress of Gates, 365
cabal in his favor, 367
Reed to Gates, 368
censures Washington, 370
chosen president of Board of War, 376
Lovell to Gates, 376
Gates to Conway, 377
correspondence with Washington, 378
explanatory letter to Washington, 395
declines repairing to camp, 399
submissive reply to Washington, 405
Gates ordered to Boston, 499
Macdougall's unfavorable opinion of, 499
Gates declines command of expedition against the Indians—reflects upon Washington and Schuyler, 537

PAGE

Gates—
Gates elected to command the Southern army, ii. 115
cautioned by General Lee, 115
assumes the command of army under De Kalb, 117
disregards a proposed increase of cavalry, 119
routed at Camden, 121
flies to Hillsborough, 122
submissive letter to Washington, 125
court of inquiry ordered, 132
Virginia, kindness toward—also that of Congress, 203
Newburgh letter written in his quarters, 393
"Gazette, National," established by Jefferson and Madison, iv. 501
attacks courts of U. S. for decision as to debts due to British creditors, v. 18
calumnious attacks on Federalists, 31
increased boldness of, and violation of Excise act applauded, 60
assails Washington, 183
commends violence of French Revolution, 218
censure of caution of administration, 219
clamors raised against it, 221
appeals in favor of France, 224
stimulates hostility toward England, 259
excuses supposed murder of Gouverneur Morris at Paris, 259
war with England urged, 270
assails executive measures of neutrality, 272
violent denunciations of Government, 305
defends Genet's threatened appeal from President to people, 357
attacks Washington — abuse of Chief Justice Jay and King, 359
seizure of a French prize reprobated, 359
discontinued, 421
General Convention—a second one urged by New York, iii. 539
General Government — successive plans, iii. 244
Genet arrives at Charleston, v. 246
sketch of, 246, 247
motives for sailing to Charleston, 247
his instructions—object of, 247
warmly greeted by people of Charleston, 248
directs French consul to establish Court of Admiralty in Charleston, 248
British and Dutch prizes condemned there, 248
proceeds to Camden and Salisbury, and thence to Philadelphia, 248
meeting convened to address Genet, 250
presented to President, 259
public dinner to and extravagant toasts, 259
asks prepayment of instalments of French debt, 260
transmits decree of Commerce—its character, 260
indecorous reply of to Government, 262
avows arming vessels in ports of U. S., 262
insulting rejoinder of Genet to letter of Jefferson—asserts right of

PAGE

Genet—
arming in the U. S.—defends issuing commissions to privateers, v. 266
civic feast to—impugning administration, 270
insolent vindication of American citizens serving in French privateers, 270
mild reply of Jefferson, 271
violent reclamation by Genet, 274
reply to, as settled by cabinet, 274
offensive answer by Genet, 275
asks a supply of arms by U. S., 276
asks anticipations of French debt, 276
violent communication as to refusal of them, 277
states intention to assign debt to American merchants or farmers, and demands an adjustment of debt to France—the former disapproved—the latter promised, 278
states his intention to suspend payment of drafts held by Americans for supplies to St. Domingo, 278
reply penned by Hamilton, 279
issues an order to French Consul authorizing violation of neutrality, 279
requested to deliver prizes made in American waters to their owners, 293
announces his determination to order "Little Sarah" to sail, 302
remonstrates as to a British privateer in an American port, 302
reclaims against British visits of American vessels, 302
causes handbills issued to enlist on board French privateers, 312
complains that President would not convene Congress, 328
attack on policy of administration by secretary of Genet, 347
"A Jacobin" violent diatribe, ascribed to Genet, 347
publicly welcomed at New York, 353
his menaced appeal to people denied, 356
violent letter to President, 356
fact of his threatened appeal to people confirmed by report from Jefferson, 357
forbids marshal of U. S. to arrest a French prize brought into New York, and orders it to be protected by force, 359
draws from "Helvidius" his vindication for denying President's power to issue proclamation of neutrality, 370
offensive letter of Genet as to restoration of prizes, questioning power of President, 374
replies to letter giving reasons for his recall, 375
inuendoes as to Jefferson and Madison, 375, 376
threat of appeal by, charged to be false, 378
charge sustained by Jay and King, 378
plots of, against Louisiana and expeditions organized, 393-397
repeated offensive denials of power of President, 399

PAGE

Genet—
asks advance of money on account of debt to France, v. 399
draws on Treasury of U. S. drafts refused—remonstrates, 400
insulting letter of, covering a decree suppressed by Jefferson, 418
makes a requisition on Attorney-General to prosecute Jay and King for a libel, 426
announces to Jefferson his intention to publish his instructions, &c., 435
his letter submitted to Cabinet—and letter by Jefferson returning copies of his communications and stating their submission to Congress solely a matter of Executive discretion, 436
letters of withheld by Jefferson communicated to Congress—avowing his having raised an armed force to attack Spanish dominions, 495
Genet recalled—conduct disapproved, 496
instructions of Genet published by him showing object of France to induce the U. S. to make common cause with her, 499
George Third—his character, ii. 406
Georgia joins the Confederacy, i. 94
reduced to subjection by Americans, 529
position—colonial government of, weakness owing to slave population, iii. 389
adopts Constitution, 391
declares officers of U. S. courts attempting to levy an execution guilty of felony, v. 362
expedition organized against Creeks, 362
discountenanced by President, 363
French legion recruited by Clarke but suppressed, 397
expedition in, vi. 54
Governor called on to suppress it, 55
resolution by, so to amend Constitution of U. S. to give power to recall Senators, 339
Gerard—envoy to United States, ii. 419
instructions to, 422
communications to Congress, 423
leaves Congress, 426
Germantown—battle of, i. 290
Gerry opposes enlisting troops to garrison frontier posts—to be garrisoned by a regiment of militia, iii. 84
objections to a National Convention, 139
withdraws from Massachusetts Convention, 413
as to assumption of State debt, iv. 301
urges further assumption, 380
appointed one of a commission to France, vii. 40
attempts to lure him to obtain a loan to France, 122
confers informally with Talleyrand, 153
refuses to sign remonstrance of Marshall, 207
favors a loan to France, 207
remains alone in Paris—deluded

PAGE

Gerry—
by Talleyrand, ordered home and returns, vii. 208
his influence with Adams, 230
comments of Pickering, 231
Giles, W. B., sketch of, iv. 216
attacks fiscal system, 328
proposes, in case of vacancy, the President's office devolve on Secretary of State, 344
assails Hamilton's protective policy, 353
opposes assumption of State debts, 386
moves to sell stock of Government in U. S. bank, opposed by Clarke, v. 143
opposes consideration of Hamilton's plan for redeeming the debt, 145
resolution by, as to Hamilton's conduct, 174
series of resolutions on same subject, 178
moves a series of resolutions of inquiry into Hamilton's official conduct, 423
reports inexpedient to call for Jefferson's report as to foreign relations, 429
defends Jefferson's report on commercial intercourse, 466
opposes establishment of a Navy, 488
advocate of commercial retaliations, 518
favors reprisals on English property, 525
opposes a loan in anticipation of revenue, 576
moves second inquiry into Hamilton's official conduct—speech of, vi. 12
for reducing army, 147
vindicates the Democratic societies and denounces fiscal system, 124
moves renunciation of titles by aliens applying to be naturalized, 138
opposes carriage tax, 179
offensive remark as to Washington, 562
impeaches the public credit of U. S. and is denounced by Hamilton, 587
opposes demand of compensation by France for spoliations, vii. 34
opposes increase of army, 49
opposes employing the frigates as convoys, 50
denounces a navy, 51
retires from Congress, 138
insists on right of State to instruct her Senators—and after denies it, 339
opposes reduction of navy, 531
derides reduction of salaries, 536
in favor of repeal of Judiciary act, 560
Golden Hill—fight, i. 34
Gordon—to Washington and reply, i. 411
Government, increase of its power, ii. 110
coercive power in, urged, 111
Government, National—to be established, 260
plans of before National Convention, 269
Granger, Gideon, appointed Postmaster-General, vii. 506
Greene, General, as to Lee's conduct, i. 155
birth and spirited counsels—joins army at Cambridge, 166

PAGE

Greene, General—
services in New Jersey—Hamilton's opinion of, i. 167
succeeds Mifflin as Quartermaster-General, 411
his firm counsels, 464
gallant conduct at Monmouth, 477
ordered to Rhode Island and urges D'Estaing to proceed there, 490
defeats the enemy, 491
gallantry at Springfield, ii. 33
as to Quartermaster-General's department, 39
difference with Board of Treasury —Hamilton's discreet advice, 41
resigns the place of Quartermaster-General, 41
selected to command Southern army, 132
takes the command—condition of army, 163
eludes the enemy and enters Virginia, 167
battle of Guilford Court House, 183
moves to South Carolina, 184
wins battle of Eutaw, 276
Grenville—mission to negotiate as to peace, ii. 465
Griswold, Roger, resolutions by declaring right of U. S. to navigation of the Mississippi—its obstruction—calling for inquiry as to legislative measures—postponed, vii. 617
in favor of a dissolution of the Union, 781
Guilford Court House, battle of, ii. 183
Hamilton's notice of, 184
Guns, attempts to seize them by a party under Pickering, i. 187
Gunboats authorized, iii. 603, 670

H

Habeas Corpus, bill suspending, passes—vote by Senate—rejected by House, vii. 679
Half-pay—commutation of, ii. 379
granted, 397
HAMILTON, ALEXANDER—*Union*, i. 1
arrives in New York, 39
birthplace, 40
parentage and lineage—Scotch, 41
Mother—French, 41
date of birth, 42
educated at Santa Cruz—early studies—pious instructions, 42
enters a counting-house, 42
letter to Stevens, 43
charged with care of mercantile establishment, 44
description of a hurricane, 45
arrives at Boston—enters school at Elizabethtown, 45
studious habits, 46
writes an eulogy and other verses, 46
lodges with Mulligan, 46
enters King's, now Columbia College, 47
studies anatomy, with a view to become a physician, 47
religious habits, 48
writes a hymn and other verses, 48
writes for Holt's Journal, 48

PAGE

Hamilton, Alexander—
Hamilton addresses meeting in fields, i. 55
Hamilton writes a "Full Vindication of Congress," 65
Hamilton writes "The Farmer Refuted," 69
Hamilton writes "Remarks on the Quebec bill," 98
joins a volunteer corps, 99
Hamilton addresses mob to quiet their violence, 100
offers to recapture Rivington's types, 101
Hamilton points to independence, and predicts aid by other powers, 110
appointed to command the New York artillery company, 121
advises promotions from lowest grades, 121
advice adopted, 122
his studies—idea that taxes of the United States be collected by persons appointed by Continental Congress—prepares outline of a plan of a history of British America, 122
his first interview with Washington, 129
at White Plains, 133
at New Brunswick, 137
member of Washington's staff, 171
letter to Colonel Campbell, 177
as to capture of St. Augustine, 178
the convention of New York, 179
as to Danbury expedition, to Sterling, 180
as to designs of enemy, 181
protection of Hudson, 183
opinion of Constitution of New York, 190
as to a representative Democracy, 191
advises caution in punishment of offenders, 193
probable treaty with France, 194
Hamilton for Washington—vigor as to disaffected—as to exchange of prisoners, 196
as to cruelty of enemy, 199
equitable exchanges, 200
as to defences on Hudson, 202
movement of army, 205
its position, 207
Burgoyne's position, 210
to Putnam, 212
policy of Prussia, 215
evacuation of Ticonderoga—transmits orders to Putnam as to aids to Northern army, 234
policy of enemy—contemplated attack of New York, 238
depreciation of currency, 239
encourages Schuyler—Hamilton to Dr. Knox—prospects of campaign, 244
to G. Morris as to Burgoyne—reinforcements—enemy leaves New York, 247
encouraging letter for Washington to New York Council of Safety, 255
also to Clinton, 268
to Livingston—movements of Howe urged, detailing Morgan's rifle corps to Northern army—their march, 260

PAGE

Hamilton, Alexander—
movements of Howe, i. 279
narrow escape, 280
urges Congress to leave Philadelphia, 280
detached to impress clothing, horses, &c., in Philadelphia, 282
saves public property, 284
letter to Congress, 285
from Washington to Congress—troops bare-footed, 285
as to defences of the Delaware, 289
to Congress as to battle of Germantown, 295
draws instructions to Col. Greene, at Red Bank, 298
mission to Putnam and to Gates, to obtain reënforcements for main army, 338
conduct of Gates, 344
letters to Gates, 347-349
Putnam's neglect, 351
letters to Washington, 350-357
letter to Putnam, 359
letter to Conway, 381
letter to Congress as to captured property, 388
as to character of Congress and the Cabal, 422
as to Pulaski, 430
pretensions of foreign officers, 431
plan for new military establishment, 434
as to Steuben and Inspector-General's office, 438
as to reduction of number of regiments, 441
draws plan of Inspector-General's office, 442
as to exchange of prisoners, 446
as to reorganizing army, 451
reply to Tryon, 455
to Greene as to army preparations, 456
to Cadwallader, 466
unites with Greene in urging an attack on British, 467
ordered to proceed with the advanced corps, 468
advises as to enemy, 469
orders to Lee, 472
advice as to disposition of army, 473
horse shot—commands Olney's regiment, 476
his gallant conduct, 477
his tribute to Washington, 478
sent to confer with Count D'Estaing, 486
Hamilton as to Baron Steuben, 488
as to Sullivan's disagreement with French officers, 495
letter to D'Estaing, 497
states views of Washington as to proposed conquest of Canada, 501
views as to movements of enemy, 503
prepares opinion as to plan for conquest of, 505
commissioner as to exchange of prisoners, 509
writes comment on proposed expedition to Canada, 510
urges reduction of Fort Niagara, 513
as to Lee's controversy with Steuben, 514
writes "Publius," censuring a member of Congress, 516

PAGE

Hamilton, Alexander—
plan of army arrangement and operation of troops, i. 518
urges economy, 522
half-pay for life for officers urged, 523
draws plan for Inspector-General's office, 525
urges raising black levies in South Carolina, 530
Hamilton contemplates emancipation of negroes, 531
urges more efficient measures for defence of Southern States, 532
to Laurens as to especial honor by Congress 535
as to decay of currency and languor of public mind, 539
as to discontent of Jersey regiment, 540
as to attack on New York, 546
proposed joint attack of New York, 556
appointed to confer with D'Estaing, 561
suggests an army to be sent to the United States by France, 563
in view on a mission to France, 564
Col. Laurens appointed—depreciation of currency, 565
imperfect financial organization, 568
crude schemes of finance, 569
important letter to Robert Morris, as to currency—a loan—an American bank—board of trade —an administration by executive departments, each under one head, 570–578
Hamilton urges tenderness in impressing supplies for army, ii. 4
accompanies expedition to Staten Island, 5
mission to settle a cartel, 6
interference of States with power of Congress in discharging soldiers, 9
as to usurpation by Board of War, 9
to Lincoln as to defence of Charleston, 12
as to Constitution of Massachusetts, 14
approving energy in the administration, 14
to La Luzerne, as to auxiliary army, 16
to Duane, urging a committee of Congress to reside near headquarters, 18
its limited character, 20
as to conquest of Canada, 21
proposed addition to powers of committee at head-quarters, 22
reënforcements, 23
call on States for specific aids, 24
to Reed, as to supplies for army, 26
aids from France, 29
distresses of army, 31
to committee of cooperation, urging increased force, 33
to Congress as to increased exertions, 37
to Greene, discreet advice, 41
as to right of selecting an officer for a special command, 42
plan for attack on New York, 46
view as to expedition against Canada, 47

Hamilton, Alexander—
recovery of South Carolina and Georgia, ii. 49
announces Arnold's treason to Greene, 55
to Laurens—particulars of the treason and execution of André, 56
urges a convention to form a confederation, 86
view of a new system of government, 87
single executive officer, 97
recruit army for the war, 98
Congress to provide supplies exclusively, 99
half-pay to officers for life, 99
a foreign loan, 100
tax in kind, 101
State collectors of taxes to be subordinate to Congress, 102
a national bank, 103
plan of, 105
authority over States, 108
condemns project to appoint a dictator, 111
as to defeat of Gates, 123
urges a vigorous government and army for war, 124
to Sears—urges a government with more power—a foreign loan—a bank—army for the war, 134
as to selection of Greene to command Southern army, 135
asks a special command in projected attack on New York, 139
recommended by La Fayette as Adjutant-General, 141
and as envoy to France, 143
Laurens chosen, 144
marries Eliza, daughter of General Schuyler, 145
projects a plan of supplies, 149
draws instructions for Laurens as to mission to France, 150
letter to Franklin, 155
on punishments by military code, 156
difference with Washington, 172
Draws instructions to La Fayette —ordered to Virginia, 181
obtains commission as Lieut.-Colonel, 183
retires from Washington's staff, 189
applies for a command—correspondence with Washington, 191
proposed as head of Treasury department, 201
view of financial condition of the United States, 214
again proposes a national bank, 216
gives plan, 219
advises a convention of all the States, finally to amend the confederation, 224
writes "The Continentalist," to induce an enlargement of the powers of Congress, 231
rejoins the army, 253
placed in command of a battalion, 254
captures redoubt at Yorktown, 268
applies to Washington to retain his rank, giving up his emoluments, 279
licensed as an attorney, and prepares a "Manual on the Practice of the Law," 282

PAGE

Hamilton, Alexander—
interposes with Knox on behalf of Asgill, ii. 284
accepts the appointment of Continental Receiver, 290
attends Legislature of New York at Poughkeepsie, 293
resolutions for a general convention to amend the confederation prepared by him—pass, 297
induces appointment of a committee to devise a system of taxation, 299
writes to Laurens as to invigoration of government, 300
correspondence as to finance, 303
frames a system of specific taxation, 304
elected to Congress, 306
address to public creditors of New York, 309
resigns as Continental Receiver, 318
situation of United States, 319
urges further aid by France, 322
public debt, domestic and foreign, 323
nominated as Secretary of Foreign Affairs, 336
recommended as envoy to France, 336
takes his seat in Congress, 338
moves a committee of conference with Pennsylvania, 338
moves a call on the States to provide requisite funds, and a deputation to Rhode Island to grant the impost, urging the motives, 340
answers objections of Rhode Island to grant of imposts, 342
recommends collection of revenue be under control of United States, 345
draws resolutions giving pledge of establishment of a sinking fund, 350
further provision for interest on the liquidated debt, 352
as to valuation of lands in each State on basis of contribution, 352
propositions to redeem old continental bills fail, 353
report on petition of army, 358
presents resolution for establishment of permanent funds, to be collected by Congress, 360
report on Pennsylvania memorial, 360
motion pledging Congress to a valuation of lands, 364
correspondence with Washington as to discontents of army, 365
resolution declaring Congress happy to receive Washington's communications, 367
as to valuation of lands, 369
moves doors of Congress be opened during discussion as to provision for debt, postponed, 378
report of commutation for half-pay, 379
as to army discontents, and policy to be observed, 388
reports commendation of Washington and officers of army, 394
letter to Washington as to perpetuation of Union, 395
draws resolution, which passed, as to commutation of half-pay, 398
proposes a limited treaty of commerce with Russia, 458

PAGE

Hamilton, Alexander—
objects to join confederacy of armed neutrality—report approves its liberal principles, but forbids entering into any engagements, ii. 460
resolution by, for communicating to France secret article of treaty with England, and commending negotiators and treaty, 490
prepares ratification of treaty and writes to Jay approving it, 491
state of country, inefficiency of confederation, 491
remarks on policy of France and existence of a party in Congress too favorable to her, 492
comment on instructions to commissioners, 493
army claims, 495
parties in Congress, State and continental, 501
half-pay, 504
as to restoration of British prisoners and surrender of posts, 509
suggests formation of a national marine and a national coinage, 514
writes a commentary on "Wealth of Nations," 514
opposes a revenue of limited duration, collection by Congress, 515
proposes a house and land tax and specific taxes, 516
objects to an arbitrary system of assessments, 516
report as to establishment of funds and specific taxes, 519
protection of American industry, 520
as to rule of contribution, three-fifths of slaves, 522
views as to plan for funding debt, 524
conference with Superintendent of Finance—his continued services required, 527
in favor of open debates in Congress, 528
corps of invalids—provision for, 528
advance of pay to retiring army, 529
allowances of land to, 530
furloughs to soldiers and retention of their arms, 530
remonstrance as to deportation of negroes by Great Britain, 530
removal of obstructions by States to recovery of debts—restitution of confiscated property and discontinuance of confiscations, 531
treaty of peace, its faithful observance and obligations, 532
violations of, and binding effect of preliminary treaty, 534
its advantages, 537
garrisoning frontier posts, 538
territorial controversy of New York and Vermont, 539
policy advised in relation to, 540
frames a plan for Quartermaster-Generals department, 543
department of Foreign Affairs, plan of, 544
plan of a peace establishment, 546
land fortifications, 551
agent of Marine and formation of a navy, 551
arsenals and manufactories of arms and foundries, 551

Hamilton, Alexander—	PAGE
general hospital,	ii. 552
militia classing and disciplining,	552
military board,	552
army and navy urged,	553
garrisoning frontier posts with troops of U. S. urged,	554
vindicated by Hamilton,	555
as to army insurgents,	562
removal of Congress advised,	564
vindicates proceedings of Congress,	564
reviews of Hamilton's policy as to foreign and internal affairs,	568
prepares resolutions, specifying defects of articles of confederation, and calling a general convention to revise and amend them, and establish Union on a more solid basis—Washington's circular letter,	579
retires from Congress,	579
note as to Washington—Reed and Lee—note—vindication of Hamilton's retiring from Washington's staff,	NOTE.
Hamilton proceeds to Albany, asks permission to retain his rank in army,	iii. 8
Washington's reply,	6
argument as to binding operation of treaty of peace,	11
supreme power of Congress,	17
a State cannot dissolve its accession to the Confederacy,	18
the Union not a compact of States,	20
binding effect of a treaty on the States,	21
objections to Test oath,	30
opposes proposal to confiscate property of Society for propagating Gospel,	32
writes "Phocion,"	33
replies to "Phocion,"	37
second "Phocion,"	38
challenges proposed,	45
frames charter of Bank of New York,	48
participation in Manumission Society,	49
view of proper commercial system and recommends a plural commission,	54
resolutions declaring navigation of Mississippi a clear and essential right, to be supported,	107
liberal views as to foreign policy of U. S., and final necessity of general counteracting regulations,	120
as to Cincinnati, urges provision for Steuben,	123
report as to Cincinnati, disapproves hereditary principle,	127
urges conferring on Congress sole power of commercial regulations,	150
commissioner, to convention at Annapolis,	162
frames report of recommending a general convention to remodel the Constitution,	163
memorial to legislature to vest Congress with revenue powers,	171
chosen to legislature of New York,	179

Hamilton, Alexander—	PAGE
of committee to answer Governor Clinton,	iii. 184
speech on power of Governor,	133
remarks and bill to repeal laws contravening treaty of peace,	196
chairman of committee on expiring laws,	200
defends free vote by ballot, and opposes test oath abjuring ecclesiastical obedience,	201
opposes disqualifying proposition,	203
also legislative disfranchisements,	207
opposes arbitrary assessments,	211
opinion as to common law,	212
bill to regulate copper coin—bankrupt act,	214
opposes discriminating provision for public creditors,	215
frames act to institute a university and promote general education,	221
speech on grant of impost to Congress,	222
speech on bill to accede to the independence of Vermont,	231
moves appointment of commissioners to a general convention appointed with Yates and Lansing,	241
moves addition of two others—defeated in Senate,	242
successive views as to a new government,	252
of committee to frame rules for the general convention,	255
for a single Executive—opposes Council of Revision, and favors an unqualified negative,	264
comments on Madison's theory,	265
urges choice of Senate by people,	266
seconds recommitment of Virginia resolutions,	267
proposes apportionment of the national legislature by free inhabitants,	270
favors choice of Executive by people,	270
as to power of Executive,	271
speech on his proposed plan of government,	275
necessity of constitutional checks,	280
advocates adherence to the Republican theory, and perfect equality of political rights,	283
misstatements of his speech exposed,	284
his plan of government,	286
results of,	298
two autograph plans of government by him,	301
State governments to be preserved, but general government to have full sovereignty,	304
usurpation the consequence of weak government,	305
first branch to be chosen by people —term three years—public will adopt a solid plan,	307
Congress to be paid by people, not by States, amount not to be fixed,	308
opposes exclusion from office, but urges members of Congress, on taking their seats, vacate every other office,	309

PAGE

Hamilton, Alexander—
approves a durable Senate, iii. 311
for moderate governments, 311
opposes equal representation of the States and partial distinctions, 315
necessity of a strong government, 316
changes his opinion as to a President during good behavior, 323
publishes an animadversion upon George Clinton, 324
favors rule of naturalization being confided to the national legislature, 329
his great efforts to improve the plan of Constitution, 333
signs the Constitution, 338
publishes a view of propositions for a government made by himself, 341
opposes re-eligibility of President a third time, 347
progressive view as to a government, 349
Guizot as to Hamilton's views, 354
probable dissolution of Union, 359
adopts orphan child of an American officer, 362
urges Cincinnati to support the Union, 363
comments on Clinton's opposition to Constitution, 364
urges provision for Steuben, 367
writes the "Federalist" in conjunction with Madison and Jay, 369
arranges line of expresses from New Hampshire, and advices sent by him to Richmond, 479
attends Congress—reports in favor of admission of Kentucky into the Union, 481
attends Convention of New York, 488
advocate of a national government to act upon individuals, 486
republics destroyed by weakness of their head, 491
necessity of compromises in Constitution, 492
assailed for acceding to limited representation of slaves—advocate of their gradual emancipation, 492
defends their limited representation, 493
favors a broad democratic branch in the legislature, 494
opposed to a pure democracy, 496
freedom of popular elections, 497
defends a stable Senate, 500
States essential parts of the Union, 501
safety in people and energy in administration, 503
defends revenue power of government, 505
State and national influence, 506
impolicy of requisitions, 509
reply to Lansing's misstatement, 512
opposes proposed amendments of Lansing, and denies validity of a conditional ratification, 519
opposes restriction on employment of militia, 523
closes discussion of Constitution, 526
presents ratification by New York to Congress, 527
public honors paid to him, 528

PAGE

Hamilton, Alexander—
urges accession of Vermont, iii. 531
plenary power of taxation a vital principle of government, 533
advice to parry proposed amendments, 541
for seat of government in New Jersey, 543
temporary seat at New York, 545
defeated in election by New York legislature of delegates to Congress, 548
address to people of New York as to election of Governor, 549
urges Washington to accept Presidency, 552
view of Adams as Vice-President, 562
his reasons for supporting Adams, 564
influence in preventing a competition with Washington, 567
object of his life, iv. 1
for permanent funds, 6
urges power in Judiciary to expound the Constitution, 25
State courts to have cognizance of acts of National Legislature, 27
appointed Secretary of Treasury and negotiates loans from Bank of New York, 32
urges Robert Harrison to accept a seat on bench of Supreme Court 33
refuses to impart information to General Lee, 34
establishes revenue system, 39
initiates navigation act, 41
organizes Treasury department, 42
prepares Report on Public Credit, 49
urges assumption of State debts, 50
condemns discrimination between public creditors, 50
plan of a loan, 54
his revenue system, 55
excise, 56
plan of sinking fund, 57
consults Madison as to revenue system, 60
wishes heads of departments admitted on floor of Congress to explain their propositions, 67
proposes vesting discretionary power of relief in cases of forfeitures, 68
disapproves claim for depreciation of currency, 68
urges purchase of West Point, 69
recommends regulations for renewal of Loan office certificates, 69
makes report as to Post-office department, 69
attacked by Burke, 70
report on remission of fines and forfeitures, 95
opinions of Madison's conduct, 104
Cabinet opinion as to discrimination in pay of troops, 125
reports a sinking fund, and act passed for reduction of debt, 142
his financial system examined, 145-151
report recommending modifications of laws and provisions for collection of duties, 159
opinion as to payment of duties in gold and silver coin, 162
points to a national bank, 163
report on light-houses, 164

PAGE

Hamilton, Alexander—
proposes a superintendent of revenue in each revenue district, iv. 165
reports plan for sale of public lands, 167
its features stated, 170
report as to application for loan, 176
proposed adjustment of debt to France, 177
guarded instructions as to loans, 178
communications with Beckwith, 187
report on foreign relations of U. S. 191
as to preservation of western country and navigation of Mississippi, 195
draws President's speech, 201
report for establishing public credit, 206
proposed increased duty on imported and domestic spirits and upon stills, 208
his plan of collecting excise duties, 209
urges variety in sources of revenue, 211
reports a mode of renewing evidences of public debt, 218
report as to trade with China and India, 219
official opinion as to national bank, 247
report on mint, 271
alleged favoritism to national bank disproved, 284
influence to relieve private credit, and disapproval of multiplication of banks, 287
letter to Duer—indicating duties of an insolvent, 289
effort to sustain American credit in Europe, 294
measures to aid domestic industry, 296
report on manufactures, 299
advocate of light duties, 312
urges an American system of industry under one government, 313
visits New York, admitted to freedom of the city—and portrait placed in hall of justice, 315
public festival to, by merchants, 315
letter as to protection of Indians, 316
discreet advice as to frontier collisions in letter drawn by him for Washington, 318
draws President's speech, 322
reports estimates for public service, 345
his constitutional opinion as to powers of government stated and vindicated, 363
report of state of debt funded and unfunded—urging an immediate general assumption, 372
advises payment of debt to foreign officers, 373
suggests plan of a sinking fund, 373
reports total expenditure and receipts of Government, 389
intrigue of Jefferson to drive him from office, repeated and defeated, 389
report as to additional revenue, 391
bill imposing increased duties passed, 396
report on excise system, 402
report for establishing Marine Hospitals, 407
advocate of justice—opposition to him commenced in opposition to a just provision for debt, 421

PAGE

Hamilton, Alexander—
opinion as to source of legislative power, iv. 423
as to choice and number of senators, 424
for a single executive, 424
as to appointment and power of national judiciary, 425
as to power of House of Representatives, 426
derides coercive power as a mode of government, 428
limited views as to power of executive, 433
danger of excessive patronage, 434
power of removing officers, 434
progressive views as to government, 436
urges a Republican Government, 437
strength of Government to prevent anarchy and thence monarchy, 438
common rights of men, 439
opposition to slavery, 440
looks to emancipation of slaves, 440
view in fixing ratio of representation as to slaves, 441
proposal that President be ineligible after second time, proof no monarchical designs, 462
why such designs believed, 463
friends of, oppose cabal as to seat of government, 477
letter of, as to hostile denunciations of Virginia, urges the principles be exploded, 479
social intercourse with Jefferson ceases, 491
Hamilton's distrust of Burr, 505
advice as to promotion of civil officers, 514
recommends Oliver Wolcott as comptroller, 514
gives history of opposition to the administration, 520
Madison's course delineated 521
Jefferson's opposition stated, 524
effort to induce Hamilton's resignation, 527
Madison defeated in his intrigue, 528
his personal hostility to Hamilton—Madison's attempt to deceive Washington frustrated, 529
delicate conduct of Hamilton, 530
favors doctrine legislature no right to mortgage revenues, 530
Madison's course as to fisheries—also as to militia, 532
and attempts to alarm public mind, 532
Madison a discontented man, 534
Hamilton refutes idea of a monarchical party, 537
is affectionately attached to the Republican theory—but success a problem—State Governments useful if kept within proper bounds, 538
in favor of national scheme of connecting National and State Judicatures, 539
his view of French Revolution and letter to La Fayette; 549
proposed arrangements as to French debt, 551
objects to placing French vessels on footing of natives, 554

PAGE

Hamilton, Alexander—
wishes a treaty of commerce with France, iv. 554
in favor of "*free* course of trade," 555
submits to Congress a return of exports of U. S. to thwart proposed restrictions on trade with Great Britain, 559
policy towards France vindicated, v. 6
comments by on Jefferson's answer to Hammond, 12
urges moderation in New York, 29
combats Washington's thought of resigning, 38
answers Jefferson's objections to policy of Federalists and complete vindication of, 43
denial of monarchical designs, 49
state and views of parties, 51
danger of geographical parties, 53
urges Washington's consent to re-election personally and by letter, 55
writes "an American" exposing course of "National Gazette" under Jefferson's sanction, 60
writes "Civis" in reply to Mercator, 62
reply to alleged advocacy of monarchy in Federal Convention, 63
dignified reply of Hamilton to Washington, 71
writes "Catullus" exposing Jefferson's connection with the "National Gazette"—his conduct as to Constitution and as to French debt, 77
also his opposition to Financial system, 78
vindicates his opinions as to government, 81
writes "Metellus" on duty of a dissatisfied member of a cabinet, 82
efforts to defeat Burr's election as Vice-President, 90
view of character of John Adams, 91
urges him to resume his seat in Senate, 92
to Washington—urging a vigorous execution of excise law in delinquent region, 96
to Washington—stating time for acting with decision at hand, 97
takes measures to enforce law, 99
advises proclamation by President with suggestions as to its terms, 101
causes prosecutions to be instituted, 104
hopes legal coercion will suffice, 105
plan for executing excise laws without resort to force, 106
measures for collection of duties on commerce, 106
condemns taxation of funds of U. S., 109
attends to negotiation of foreign loans, 109
measures of to prevent officers of War and Treasury handling money for supplies to army, and to guard them from suspicion, 110
commendation of Hamilton's policy by Ames, 111
malignity of opposition, 111
letter to C. C. Pinckney as to persecution by enemies and spirit of faction, v. 112
draws President's speech, 116
opinion to President as to further aid to St. Domingo—dissuades because of change of French Government, 120
misstatement of Jefferson exposed, 121
demands of Mercer retraction of a calumny, 127
reports estimate of appropriations, 127
detailed estimate given and approved, 128
reference to him of a petition negatived, 128
resolution calling on Hamilton for a plan to redeem the debt opposed by Madison but carried, 130
reports plan of a provision for a loan from Bank of U. S., and also a plan for redemption of debt, 136
three modes presented, 137
funds proposed by him, 138
consideration of his plan defeated, 146
reply to circular of officers of old army urging compensation, 153
publishes two additional numbers of "Catullus" in reply to "Aristides," 164
exhibits falsity of Jefferson's defence, 165
resolutions of inquiry into Hamilton's conduct drawn by Madison, 174
first reply by Hamilton, 175
assailed by Democratic presses, 182
report by Hamilton in reply to Giles' resolutions, 184
course of application by France for money, 188
Hamilton's view approved, 192
second report in reply to Giles' resolutions, 193
last report on further reply, 195
triumphant vindication by House, 204
public gratulations — letters of Carrington and Boudinot, 207
letter to Short to protect public credit, 208
appealed to for preservation of peace, 225
Declaration of War by France communicated to President, 225
letter from to Jay as to reception of Genet absolutely or with qualifications, 226
second letter as to issuing a proclamation to declare neutrality, or not, 227
frames series of questions for consideration of Cabinet as to foreign policy, and gives outline to President of measures, 228
questions submitted as to foreign policy, 229
combats Jefferson's policy, and it is decided that Proclamation of Neutrality issue, 233
resolved that Minister of France be received absolutely, 233
denounced as "legislative dictator of the Union," 236
report by, giving reasons for policy advised by him, 236

PAGE

Hamilton, Alexander—
question as to obligation of treaties with France considered, v. 238
payment of debt to France to be punctually made, 239
denies force of guarantee of French possessions in treaty, 241
prepares Circular to Collectors as to preservation of neutrality, 242
urges prizes by French vessels made in Charlestown be given up to English, and privateers suppressed, 243
opinion as to means of arming French vessels, 244
anonymous address by to preserve neutrality, 249
predicts policy of Democrats as to France, 250
difference between French and American Revolutions, 251
opinion urging restitution of French prizes, 254
duty of reparation, 255
advises Courts not competent to decide questions of prizes, 257
for prohibition of arming French vessels in U. S., 264
letter of Jefferson to Genet modified to meet Hamilton's views, 265
modifies Jefferson's reply to Genet, 271
disapproves anticipations of French debt, 276
and reports reasons against them, 277
reply to Genet's proposed suspension of payment of drafts for supplies, 279
insists U. S. cannot embark Chickasaws in a war with Choctaws, and dissuades a pledge to mediate as involving danger of a war, 281
recommends a further loan in Holland, 284
report showing application of loans, and that a further loan be negotiated upon authority of both the acts authorizing loans, 286
indignant at embarrassments interposed by Jefferson, announces his intention to resign, 289
submits second report to President as to application of proceeds of loans, 291
receives letter from his father in Santa Cruz, 292
advises erection of a battery to stop the "Little Sarah," 297
comments on Genet's letters and conduct, 298
objects to reference of questions between France and England to Judges of Supreme Court, 304
writes "Pacificus," 309
denounced by Democratic press, 310
successive efforts at succeeding meetings of Cabinet to direct a neutral policy, 323
defeats efforts to convene Congress, 329
attempt of a clerk to impair Washington's confidence by a false accusation of Hamilton, 330
again urges restoration of prizes of British vessels by French privateers in ports of U. S., 331

PAGE

Hamilton, Alexander—
his policy adopted, and restitution by Genet of all such prizes required, v. 332
draughts letter of Jefferson to Genet giving Cabinet decision as to armaments by French privateers, 333
letter as to recall of Genet essentially from Hamilton's pen, 335, 338
summary of this letter, 335
again arraigned for his influence with Washington, 346
publishes "No Jacobin" in reply to essay "A Jacobin," 347
summary of it—vindication of course of executive, 348
takes possession by force of an American vessel captured by a French privateer, 360
draws opinion of Cabinet ordering prosecution of French Consul at Boston, and remonstrances against French and British decrees in violation of neutral trade, 362
contracts the "yellow fever;" proceeds to Albany, 372
effort of Edmund Pendleton to impair Washington's confidence in Hamilton, 379
advises President's power as to calling Congress in extra session—leaves discretion as to time and place—suggests an expedient to obviate difficulty, 381
comment on British and French decrees, 386
views as to Mississippi, 388
comments by on Jefferson's instructions as to negotiation with Spain, 389
report adverse to advances to Genet, 399
vindicates refusal of his drafts, 400
approves dismissal of Genet, 400
declares President meant Proclamation to be a declaration of neutrality, and speech must conform, 404
prepares paragraph for speech, 405
objects to Jefferson's message as to foreign powers, which is modified, 409
urges message be secret; motives for so doing, 412
necessity of a decided stand, 413
prepares a message recommending immediate military arrangements, 413
calls on House of Representatives to institute a second inquiry into his official conduct, 423
interposes and arranges difficulty of Jay and King with Washington, 427
presents two reports on tonnage, domestic and foreign, 439
his view as to commercial policy of U. S., 449
prepares speech of Wm. Smith on Jefferson's report as to commercial intercourse, 450
summary of this speech, 450
his view of remedies proposed by Jefferson, 457

PAGE

Hamilton, Alexander—
states partial character of them, v. 458
objects to proposed increase of duties, 459
points to true policy of U. S. protection of American industry, 461
prepares a message for Washington submitting to Congress a proposal to dismiss Genet—not communicated, 495
publishes "Americanus," 500
note of to President advising preparations for defence of U. S. concert with neutral powers for common defence, 507
his plan of ten regiments, 507
proposes vesting President with power to lay an embargo, 507
proposes special mission to England, conference with Cabot, Ellsworth, King, and Strong, 532
Hamilton contemplated as envoy, 533
urged by Ellsworth and Robert Morris, 533
letter to Washington as to foreign relations of U. S., and urging Jay as envoy, 544
submits to President "Points for Consideration in Instructions to Jay," 567
reports estimate of appropriations, 575
reports explanation as to allowances, 575
reply to Sedgwick as to revenue when transferred to Treasury, and necessity of a loan, 577
loan authorized, 5[illegible]
assailed as author of report of Committee of Ways and Means—publicly denied, 592
comparison of this report with Hamilton's previously suggested taxes, 592
denies right of Government to tax its own funds, 594
as to anticipation of French debt, 597
comments on Randolph's reply to Hammond, vi. 4
called on by President to present names to select a successor to G. Morris to France, 8
list furnished by him, 8
second inquiry into his official conduct, 12
referred to a hostile committee, 14
report of, 15
replies by to report, 18
submits a paper called "Principles and Course of Proceeding" as to loans, 20
Randolph's equivocating opinion, 21
Washington's statement, 22
remonstrance on by Hamilton, 23
review of Hamilton's conduct and authority as to loans, 26
further replies by Hamilton to official inquiry, 31
report of committee unanimously vindicatory of Hamilton's conduct, 33
triumphant results and vindication of his policy, 38
announces to President his intention to continue in office, 40
asks President's sanction as to,

PAGE

Hamilton, Alexander—
application of proceeds of loan—changing its destination, vi. 45
dissuades reference of question to Congress, 47
advises dismissal of a collector of customs, 47
correspondence as to purchase of materials for building a navy, 48
advises compensation for prizes by French privateers fitted in ports of U. S., 48
letter of to Washington as to his obligation to make compensation for prizes, 49
advises instruction to Jay to insert in treaty a formal stipulation to compensate, 49
dissuades proposed concert with Sweden and Denmark as to neutral rights, and prevails, 51
advice to President as to expedition forming in Kentucky, and also as to that in Georgia, 52
letter of to Governor of Georgia to suppress expedition organized there, 55
Clarke dislodged, 58
opinion as to enlistment of troops by a State, 62
institutes a plan to aid collection of excise, 65
advises militia called out to enforce the excise law, and a draft of 12,000 men, 69
advises a monitory proclamation, 70
draws reply to Mifflin sustaining right and duty to enforce revenue laws, 75
advises garrison of "Franklin" be put in power of Major Butler, 77
answers explanatory reply of Mifflin, 77
promulgates his Report on the Insurrection, 77
publishes letters of "Tully" to sustain coercive policy of administration, 77
summary of these essays, 78
Carrington to as to feeling of Virginia, 88
organizes army of militia, 89
excursion for health of child, and sudden recall to Philadelphia, 89
letters of to Pittsburg encouraging officers to execute revenue laws, 90
letter as to Insurrection and spirit of States, 98
draws a second proclamation, 99
requests permission to proceed with expedition against insurgents, 100
prepares charge to Lee as commander of army against insurgents, 106
issues instructions to Lee for march and conduct of army against insurgents, 106
orders for army drawn by, 107
advises President of its progress, 109
stations a corps of observation in Washington County, 110
disregard of popular opinion under consciousness of his public usefulness, 113

PAGE

Hamilton, Alexander—
on influence of Democratic societies, vi. 123
his fiscal policy attacked and vindicated, 124, 125
announces to Speaker his intention to resign—inviting further inquiry into his official conduct, 136
no inquiry attempted, 136
views as to organization of militia, 139
report recommending plan of military supplies, 144
opinion as to force to be employed in suppressing an insurrection, 148
draughts proclamation of thanksgiving, 149
suggests "plan for final redemption of the debt," 152
submits a "plan for the further support of public credit;" 165
summary of this plan, 167
propositions to aid Sinking Fund, 169
objects to rendering temporary taxes permanent except when demanded by necessity, 171
argument that Government has no right to tax its own funds or sequester them, 172
report for "Improvement of the Revenue," 175
recommends limitation that no appropriation for current service continue more than two years, 179
provision for unsubscribed creditors rejected, 179
earnest remonstrance of on rejection of proposal to provide for unsubscribed creditors, 180
his fiscal system, with a few exceptions, adopted, 182
advises President to annex the control of the Mint to the Treasury Department, 187
advises discontinuance of "mounted volunteers," 189
sends thanks to foreign bankers and Bank of U. S. for public services, 191
retires from office, 191
Washington's testimony to his services, 191
acknowledgment by Hamilton, 192
contemplated visit to Europe, 193
motives to retirement stated, 193
tribute from McHenry, 194
prepares "Points for Instructions to Jay," 197
summary of, 198
letter of to Jay on terms of treaty, 201
on navigation of Mississippi, 204
letter to Jay as to public conduct and mind in U. S. towards Great Britain, 206
views of Grenville's propositions communicated to Randolph, 212
freedom of city of New York conferred on him, 213
public entertainment to by citizens, 213
urged to become Governor of New York, 213
proceeds to Albany, 213
opinion to President as to special session of Senate to consider treaty, 214

PAGE

Hamilton, Alexander—
to Bradford as to ratification of treaty, vi. 216
as to liberation of La Fayette, 217
advises communication of contents of treaty to French envoy, 220
attempts to address meeting at New York to consider the treaty with Great Britain, and is stoned, 225
menaced duel with Nicholson, 226
encloses to Washington "Remarks on the Treaty," 229
summary of his views, 230
advises its ratification; 232
opinion as to true basis of commercial system, 233
advises ratification of treaty with instructions to Jay not to exchange treaties until the provision order rescinded, 236
publishes "Horatius" urging approval of treaty, 239
to Wolcott — violence in New York apprehended—arguing as to treaty ratification; 242
urges definitive action as to treaty, 243
advises Wolcott — exchange of treaties to be withheld until provision order rescinded, 245
resumes his place at the bar of New York, 249
his minute professional labors, 249
mode of living, 250
Talleyrand and Hamilton, 250
declines advantageous proposals for his services, 252
declines nomination as Governor, 253
his small means, 253
his respect for public opinion and value of public press, 257
publishes "Camillus" in defence of treaty with Great Britain, 259
summary of it, 259
opinion as to treaty power in Constitution of U. S. "plenary," 270
censure of sequestrations of individual property, 271
some of the numbers of Camillus from another pen, 273
publishes "Philo Camillus," 276
reply to Washington as to terms of a new negotiation with Great Britain, 286
suggestion for protection of seamen from impressment, 289
interposition for liberation of La Fayette, 290
to Washington as to Fauchet's despatch and Randolph, 293
advises correspondence with be published, 293
comments by on intercepted letter of Fauchet and the treachery of Randolph, 307
to Washington advising no notice be taken by him of Randolph's calumnies, 310
statement as to his going on expedition to suppress insurgents, 310
reply to Washington as to persons in view as members of Cabinet, 312
opinion to Wolcott giving plan for payment of interest on debt abroad, 316

PAGE

Hamilton, Alexander—
proposes warrants in advance upon Treasurer of U. S. to meet emergency, vi. 317
advice to Wolcott as to conduct of finances, 318
opinion as to powers of Commissioners under 7th article of treaty with Great Britain, 319
prepares President's speech, 322
summary of it, 323
his policy as to sale of public lands, 333
opinion against Governor of New York having sole power of nominating officers, 341
argues before Supreme Court of U. S. the constitutionality of the carriage tax, 342
declines a fee as being too large, 343
declines an overture of much advantage, 343
advice to President to refuse to send copies of papers relating to treaty with Great Britain to House of Representatives, 347
apprised of importance of a new envoy to Spain—Thomas Pinckney appointed, 352
opinion as to power of House of Representatives as to treaties, merely executive, 360
fears encroachments of legislative power, 373
letter of to Washington as to communication of papers in negotiation with Great Britain, 374
advises refusal of *all* the papers, 375
second letter confirming this advice, 376
encloses to Washington draught of opinion as to treaty power of Constitution of U. S., 377
to President approving his refusal of papers, 384
outline of message as to treaty power, 385
letter of to King as to policy in relation to appropriations for treaty with Great Britain, 394
address dissuading meeting to sustain House of Representatives—non-fulfilment of treaty with Great Britain, 396
letter to Marshall urging coöperation of Virginia, 397
condemnation by of conduct of British Ministry urging serious remonstrance as to impressment of our seamen, 408
publishes refutation of charge of British influence, and states existence of a French faction, 409
urges interposition of veto to sale of stock held by U. S. in Bank of U. S., 414
veto not interposed, 415
advice as to confirmation of John Rutledge as Chief-Justice, by Senate, 423
recommends King as successor to Pinckney in mission to England, 426
rourged by Hamilton, and appointed, 428
reply advising Washington as to course of policy in case of hostile mission by France, vi. 458
advises temporizing with France as to a minor matter, 462
advises asking explanation of recent hostile decree of France against neutrals, and a substitute for Monroe, 464
advises treaty with Great Britain be not prolonged beyond two years after the war, 465
urges convoys and completion of three frigates, also movements for a loan and Treasury bills, 465
advises Washington to ask explanation of Adet, and the appointment of a substitute to Monroe, 466
to Washington advising no power in recess of Senate to make an extra appointment — expedient to recall Monroe — suggesting with Jay's concurrence appointment of C. C. Pinckney, 468
urges Wolcott to prevent sale of a prize by a French privateer in Boston, and advises President to be empowered to lay embargoes, 476
his opinion that sale of prizes by national vessels is forbidden by treaty, 477
the order to prohibit these sales denounced in Democratic press, admitted officially at Paris to be forbidden by treaty with France, 478
assailed as author of "Pacificus," and as to his advice regarding reception of Genet, 482
to Washington requesting his draft of a Farewell Address to be sent to him, 497
Washington transmits his preparatory draught with instructions, 498
"Abstract of Points" by Hamilton, 509
comparison of with Farewell Address and Federalist, 511
draft of Farewell Address by Hamilton—its topics, 515
comparison of with other of Hamilton's writings, 519
transmits a copy of his own draft—amended, 523
interview with Jay as to Washington's own draft corrected, 524
to Washington sending him his corrected draft, 524
Washington to Hamilton as to his draft, 525
returns Hamilton's draft with approval, to be amended by him, 526
suggests incorporation in it of recommendation of a National University, 527
to Washington promising to transmit his own draft corrected, 529
Washington to requesting him to prepare a draft of speech to Congress, 529
to Washington transmitting the final draft, 530
letters forged in Virginia to effect

PAGE

Hamilton, Alexander—
that he would be a candidate for Presidency, vi. 535
advises Thomas Pinckney be supported as Vice-President, 538
assailed violently in Democratic press, 542
publishes an essay, entitled "France," exposing her policy towards U. S. during and subsequent to Revolution, 542
advises Washington as to treatment of Adet—dissuades immediate publication, 546
advises avoidance of rupture with France, 547
gives Washington an enumeration of topics in draft of speech for Congress, 548
temperate advice as to policy towards France, 549
transmits draft of speech to Washington, and advises full reply to Adet to be transmitted through American Minister to French Government, 554
to Wolcott, giving outline of answer to Adet defensive of U. S., 555
to Rufus King—states policy of U. S. to preserve peace with France, 565
publishes "Americanus" in answer to Adet, 566
summary of it, 566
to Washington, suggesting a special embassy to France, 571
approves Pickering's review of conduct of France, 572
to Washington—favors special embassy to France, to consist of Commissioners Madison, Pinckney, C. C., and Cabot—precise instructions to guard against infringement of existing treaties, and to modify the treaty of alliance, 573
comments of on the issue of the election, 576
hostility of Adams' special friends towards Hamilton, 577
to Sedgwick, advising an embargo, and, if unavoidable, a partial hostility towards France, 579
to Wm. Smith, proposing a special mission—an embargo, and measures of defence, 579
publishes "The Warning," 580
its substance stated, 581
policy of administration suggested, 582
his views as to the policy of Europe, 585
dissuades a sale of stock in U. S. Bank held by the Government, 587
publishes "Anti-Demagogue," denouncing Giles, 587
advises direct tax—urges a tax on houses, 592
advises an increase of cutters, a tax on buildings, a stamp tax, and other taxes, 593
condemns arbitrary valuations, 594
disapproves call on debtor States to pay their balances, 594
to King, as to political prospects, 598

PAGE

Hamilton, Alexander—
to Wolcott—censure on course of Congress, vi. 598
to Sedgwick — urging an extra embassy of commissioners to France, and remodification of treaty, 600
to Pickering—danger of invasion —proposes day of prayer and humiliation — extra session of Congress, and commission of Jefferson or Madison with Cabot and Pinckney, vii. 16
an embargo—additional revenue—a naval force—a provisional army, 17
similar views suggested by him to Secretaries of War and Treasury, 18
advises withholding of an exposition of treatment of Pinckney, 20
reurges a special commission to France, 20
to Wolcott—urging pacific policy as to France—a manly course by President, and defensive measures, 23
reurges commission of three to France, 27
and measures of defence, 29
agency of in speech of Adams, 31
to King—policy of energetic preparation and pacific negotiation, 40
renews his proposition of a tax on buildings, and other revenues, 41
recall of Monroe ascribed to him —plot against his official character—narrative of and public refutation of calumnious imputations, 77
indicates future government of France under a single head, 89
to Pickering, advising preparations of defence against France, 104
dissuades an immediate alliance with England, 106
renews his advice of vigorous measures of preparation of defence, 114
publishes "The Stand," 115
asked to accept the War Department, and offered an appointment to Senate of U. S., 125
declines both stations, 126
to King—as to recent orders of Great Britain, 131
exposes Jefferson's exculpation of France, 134
cautious advice as to power of President in employment of naval force, 142
his suggestion that merchant vessels be authorized to defend themselves, carried into effect by Congress, 148
advises moderation as to aliens, 159
objects to Sedition act—protests against tyrannical measures, 161
disapproves intemperate replies of Adams to public addresses, 168
proposes a tour by Washington to direct public feeling, 170
states he would be called to command army to be raised, 171
to Washington—the wish his tak-

PAGE

Hamilton, Alexander—
ing command universal—will accept place under him of "Inspector General," vii. 173
to King—want of energy in organizing resources of country—wanton condemnations by Cambould—indicates proper conduct of Great Britain, 174
contemplated as commander of army, 176
to Washington—necessity of his accepting command of army, and of attention to its arrangement, 182
to Pickering—his unwillingness to accept a subordinate place—willing to leave settlement of rank future, 184
discloses to Washington his readiness to sacrifice higher rank to public considerations, 187
view of Knox and Pinckney's claims, 188
to Washington—deference to his wishes and opinion as to his claim to rank, 191
proposes to leave question of rank with Knox to future decision, 194
refuses to hold a commission on plan proposed, 196
to Knox—kind letter to, 203
to King—state of public mind—weakness of Executive, 209
early and persistent views as to the acquisition of Louisiana, 210
his views as to liberation of South America, 211
Miranda to him—bearer of dispatches to Adams, 214
to King, enclosing a letter to Miranda, 218
letter to Miranda, stating his plan for liberation of South America, 219
urges employment of engineers to fortify New York, 221
conference with Washington and Pinckney at Philadelphia, 222
answers to questions of Washington drafted by Hamilton, 222
urges immediate raising of army, 223
military suggestions, 224
develops a system of military administration and organization of an army, 225
union of people in support of government, 229
to Gunn, as to his entering into service, 242
to Gunn, as to military arrangements, 243
advises not to reduce army, 244
draws act for better organizing army, 247
opinion that "Regulations" of, can only be made by law, 250
draws "Act to regulate the Medical Establishment," 251
frames plan for "New Organization of Militia," 252
draws plan as to military supplies, 253
opinion as to duelling, and circular to discourage it, 253
opinion as to power to appoint officers, 254

PAGE

Hamilton, Alexander—
suggests issue of "Treasury notes," vii. 256
to Lafayette—strong desire of conciliation with France—advises his remaining in Europe; 276
urges a report by Congress as to doctrines advanced in the Virginia and Kentucky resolutions, as evidence of "a conspiracy to overturn the Government," 277
suggests a revision of "alien law," and an effort to undeceive people in Virginia, 278
letter of, proposing extension of Judiciary system — improvement of roads, and a provision for augmenting means and consolidating strength of the Government, 282
suggests a military academy, also arrangements for confirming and enlarging the legal powers of Government, 283
suggests laws for restraining and punishing incendiary and seditious practices, 284
suggests a law empowering President, in a contingency, to declare that war exists with France, and to employ forces of U. S., 290
prevention of possession of Louisiana by France, and liberation of South America, 291
nomination of Murray as envoy announced, 302
comment of, on this procedure, 302
advises association of two Commissioners with Murray to France, 305
urges no commitment as to St. Domingo, 307
encloses a plan for government of St. Domingo, 307
urges energy in suppressing second insurrection in Pennsylvania, 313
command of Military Department assigned to by Washington, 318
places before Wilkinson "Heads of Conversation," 319
urges looking to possession of Louisiana and Floridas, and liberation of South America, 322
practice of artillery, and separation of engineering and artillery, and system of tactics for cavalry, 323
draws outline of Adjutant-General's duties, 323
plan for organization of volunteers, 324
prepares forms of muster and pay-rolls, 324
regulations as to officers' servants, 324
views as to promotions of Generals, 324
relative rank, 324
regulations as to general courts-martial, 324
act for better organizing corps of Artillerists and Engineers, 324
Corps of Invalids, 325
Board of Ordnance, 325
Superintendent of Military Stores, 325
plan of Divisions and Brigades, 331

PAGE

Hamilton, Alexander—
opinion as to Western Posts, vii. 332
plan of huts for winter-quarters, 334
to Washington as to embassy to France, 335
to Wilkinson as to policy towards Spain, 336
value of a "firm and cordial union," 337
prepares "Regulations as to Uniforms," and regulations as to "Issues," 345
rules as to "extra allowances," 346
contemplates a system of tactics, and police of army, 346
assumes that of infantry, 347
directs a prosecution for a libel, 348
visits Philadelphia, 349
suggestions as to general courts-martial, 349
views as to a military academy, 350
submits a plan of a military academy, 351
its features, 352
encloses it to Washington, 353
reply—last letter of Washington, 353
prescribes funeral honors to, 354
letter of condolence to Mrs. Washington, 355
letter of on state of public affairs, 357
Virginia ready to resort to force; 358
his plan to complete navy—retain present military force, and finally to reduce it, retaining its organs, 359
to Henry Lee—viger of U. S.—conviction of ultimate justice to his fame, 372
efforts to carry federal ticket in New York, 375
assailed by rabble—popular reaction, 375
urges support equally of Adams and Pinckney, 376
requested by a body of Congress to induce Jay to convene Legislature to enact a law for choice of electors by people, 377
his plan of Constitution providing for such choice, 377
letter of to Jay, urging extra session of Legislature to authorize electors by people, 380
Jay refuses to convene it, 381
urges support of Pinckney as President, 382
elected President-General of Cincinnati, 389
reply to Adams as to rule of promotion, 390
frames a system of tactics for infantry, 392
supervises system of tactics for artillery and ordnance, 392
asks leave to resign, 394
farewell to army, 394
public honors to at Boston, 394
retires from service, 394
to Carroll—avowing his opinion of Adams, and Dr. Franklin's opinion of, 395
inconsistency and impolicy of Adams exposed, 396
consults Wolcott as to call on Adams for evidence of charge

PAGE

Hamilton, Alexander—
against himself and leading Federalists, vii. 399
demand of Adams' ground of charge of a British faction, 401
Carroll to Hamilton—danger of Jacobinism and of a military despotism in U. S. 402
to Bayard—indicates probability of Jefferson or Burr being chosen President — desperate character of Burr, 402
second letter to Adams charging him with a base and wicked calumny, 405
writes examination of Adams' conduct—stating inducements to it, 405
copy of his examination clandestinely obtained and parts published, 408
[illegible] in Hamilton's office, 408
Ellsworth to Hamilton covering convention with France, and Journal, 412
instructions to envoys, 412
letters to, disapproving convention with France, 416
advises ratification of convention though disapproving parts of it, 417
comments upon, urging ratification, 418
his peaceful policy confirmed, 422
to Wolcott urging election of Jefferson by House of Representatives, 434
view of Burr's politics, 435
his ambition for "permanent power," 438
to Morris—deprecating Burr's election, 438
denounces policy of preventing an election of President, 439
to Bayard as to choice of President, 441
disclaims personal hostility to Burr, 443
Gunn to Hamilton—as to Madison's revolutionary plan—character of Burr, 445
to Rutledge—deprecating support of Burr, 446
to Morris—stating overtures of Federalists to Burr, 447
to Ross—Burr's character—urges vote of Federalists for Jefferson, 448
to Bayard—outline of Burr—danger of his election, 453
to his wife—improvements of his country residence, 487
reply by, to address of Democratic party vindicating the Federalists, 491
causes of defeat of Federalists, 496
speech at a poll of city of New York, 498
loss of his eldest son in a political duel, 499
publishes "Lucius Crassus"—an examination of Jefferson's message, 513
system of specific appropriations, 515
vindicates course of Treasury Department, 517
reduction of duties on necessaries of life urged by Federalists, 523

PAGE

Hamilton, Alexander—
comments on repeal of Internal duties, vii. 525
opinion as to naturalization laws, 529
on Judiciary of U. S., 543
objects of Judiciary power, 547
its insufficient organization, 548
to Morris disapproving a memorial by the New York bar against repeal of Judiciary act, 553
induces a memorial by Chamber of Commerce, 553
examination by, of Constitutional provisions as to Judiciary Department, 555
denies power to abolish judges, 556
as to power of one legislature binding a subsequent legislature, 558
his construction of Constitution, 559
to C. C. Pinckney proposing a meeting of Federalists at Washington, 564
suggests amendments of Constitution, 566
resolutions—partly in his autograph—proposing U. S. be divided into districts, each to choose an elector of President, and that the persons voted for as President and Vice-President be each particularly designated, 567
to G. Morris urging these amendments, 569
to Bayard—same subject, 570
relative importance of general and State governments, 573
to Bayard—measures to sustain Federal policy and invigorate the Constitution, 580
support of Christian religion, 580
address at election in City of New York, 581
to King—political condition of U. S., 582
disapproves personal attacks on Jefferson, 593
Executive has no authority to remit a fine, 596
announces cession of Louisiana to Madison, 604
to C. C. Pinckney—the annexation of territory east of Mississippi, including New Orleans, required by unity of the empire, 616
publishes "Pericles" urging armed occupation of New Orleans and the Floridas—increase of naval force—classing the militia—a provisional army, 626
addresses a Federal meeting, 641
rejoices at acquisition of Louisiana and looks to that of part of Canada, 654
his view of treaty power warranting acquisition of foreign territory and fixing rights of inhabitants, 665
his amendments of Constitution designating votes for President and Vice-President pass Congress, 674
progressive services as a lawyer, 696
case of Le Guen, 705
declines a grateful fee, 712
case of Croswell, 713
argument on the law of libel, 727

PAGE

Hamilton, Alexander—
new law of libel passed, vii. 736
incorporated in State constitutions, 736
embodied in a British statute, 736
correspondence with Clinton as to a charge of a monarchical design by Federalists, 737
instances of profesional kindness, 740
his order of eloquence, 750
liberty of press—definition of, 751
caution against Callender, 760
statement as to Burr's intrigues, 760
states his conviction he would die by Burr's hand, 765
reasons of preference of Lansing to Burr as Governor of New York, 770
fear of dismemberment of Union, 771
states intrigues of dangerous character, 773
declines taking part in election between Lewis and Burr, 778
calumniated in Burr's press, 779
avows his abhorrence of a dissolution of the Union, 779
states existence of a project to dissolve the Union, 780
private life, 789
religious feelings, 790
preferred studies and devotion to the public welfare, 793
projected investigation as to civil government, 795
fête champêtre, 796
the great barrier to Burr's ambition—and to a dissolution of the Union, 801
his pecuniary aid solicited by Burr, 802
correspondence with Burr, 805
challenged by Burr, 814
effort to avoid a duel, 814
explanatory remarks in relation to Burr and repugnance to duels, 816
chief motive for accepting challenge usefulness in a contemplated civil war, 819
meets Burr at dinner of Cincinnati—his demeanor, 821
his devotion to the Union, 822
message to Boston, 822
religious observance by, 823
to Sedgwick against dismemberment of the Union, 823
last letters to his wife, 825
is shot by Burr, 827
death-bed—Faith as a Christian, 829
receives the Communion, 833
calmness and death, 836
Hamilton, James, a merchant at St. Christopher's, vi. 415
Hammond, George, accredited minister of Great Britain to U. S., iv. 564
reply to Jefferson's demand and specification of causes of complaint on part of England, v. 9
memorials by, as to breaches of neutrality, 253
assurance that French violations should be stopped, 256
requests British seamen to abstain from violence in public streets, 269
reply to Pinckney's memorial on British orders violative of neutrality, vi. 2

PAGE

Hammond, George—
explanation demanded of certain unfriendly proceedings of Great Britain, vi. 6
recrimination of British envoy, 6
Hampshire, New, its situation—settlements and State governments, iii. 419, 428
opposes Constitution—Convention adjourns without acting, 422
Hancock, John, iii. 133
induced to support the Constitution, 417
Harper, Robert Goodloe, on motion to refer message of President refusing papers of negotiation to House, vi. 381
Harrison, Robert H., military secretary of Washington, i. 170
Harrison, Col., to Hamilton, ii. 136
Hartley—to Franklin as to terms of peace, ii. 464
"Helvidius" by Madison—its scope and false conclusions, v. 368-9
Madison denies power of President to proclaim a state of neutrality, 369
issues a proclamation as President interdicting commercial intercourse, 369
Genet draws from Helvidius his argument and authority for denying power of President to issue proclamation of neutrality, 370
Henfield and Singletary prosecuted for serving on a French privateer which captured a British vessel—interposition of Genet asked, v. 270
appeals to public sympathies, their arrest stigmatized, 306
trial of, court charges against them, 307
verdict of acquittal, 307
court stigmatized, 307
obloquy cast on Government, 307
counsel of accused paid by Genet, 308
Henry, Patrick, opposes Constitution, iii. 464
Heth to Hamilton, on result of official inquiry, vi. 34
Higginson, S., to Hamilton as to John Adams, vi. 575-7
Holland desires to enter into commercial relations with U. S., ii. 448
France interdicts—plan of treaty by Amsterdam, 449
war declared by England, 449
revolution of, its effect, iv. 542
embassy to, vacated, vii. 506
Hooper, William, iii. 537
Hospital, marine, established, iv. 407
Howard, Col., gallantry of at Cowpens, ii. 167
Howe, Gen., lands near New York, i. 123
attack at White Plains, 130
crosses the Hudson, 136
battle of Brandywine, 272
occupies Philadelphia, 288
Howe, Lord, arrives with a fleet, 123
British force 30,000,
advances in Delaware, i. 167
British fleet move up the Delaware, 207
Huguenots, i. 7

PAGE

I

Impeachments—system for conduct of considered in Senate, and introduction of trial by jury proposed and defeated, vii. 98
Impost duty recommended by Congress to be imposed by States, ii. 208
States called on to vest power in Congress to levy a duty, 209
Impost proposed by Madison, iv. 2
Independence, i. 1
New York suggests it, and Connecticut points to it, 19
predicted, 25
recommended in several colonies, 111
Hamilton points to it, 110
resolves of Congress—Virginia instructs its declaration, 116
resolutions of, 117
declared, 118
public rejoicings, 119
its acknowledgment required as a preliminary to peace, ii. 423
Indians, their complaints, i. 13
trade with, Commissioners to regulate, 31
generous policy as to Indians, 93
expedition to subdue, 537
instructions as to, 543
superintendence of, ii. 544
act to regulate trade and intercourse with, iv. 173
Hamilton to Washington as to protection of, 316
just and kind measures inculcated, 323
Indian tribes, act regulating intercourse with, v. 211
Cabinet opinion—Jefferson excepted—that the Executive and Senate had authority to cede right of soil in a treaty with certain Indians, 280
Jefferson and Knox advise engaging Choctaws to support Chickasaws—giving them arms and ammunition—and pledge to mediate a peace, 280
interview with Miamis by Governor General of Canada, indicating probability of a war, 522
Indians, Western, refuse equitable terms of peace, vi. 59
Wayne establishes camp at Greensville, 59
Hamilton's view of policy as to Indian affairs—fluctuating arrangements, 188
bill to prevent spoliation of, defeated, 190
Indies East—trade with, vi. 274
Industry, domestic—protection of, iv. 202
Hamilton's policy, and report on manufactures, 297-299
Inquiry, official—into Hamilton's official conduct—originated by Jefferson—resolutions prepared by Madison—presented by Giles, v. 173
reply by Hamilton, 175
resolutions by Senate as to accounts with Bank of U. S.,—of surplus revenue—statement of loans, &c., original books and documents sent to Senate, 177
resolutions by Giles, 178
Hamilton's replies, 184-193-195

PAGE

Inquiry, Official—
report of House on this inquiry designedly deferred, v. 200
resolutions finally presented by Giles, 202
reference of part of them negatived, 203
residue considered and rejected seriatim, 204
Inquiry, second, into Hamilton's official conduct, vi. 12
report of committee, 15
call on the President as to authority to effect loans, 20
referred by President to Randolph to consider Hamilton's exposition and his equivocating opinion, 21
report of committee vindicatory of Hamilton unanimously, 33
Instruction of Representatives, iv. 23
Insurgents' army insult Congress, ii. 561
adjournment to Princeton, 564
Insurrection in Pennsylvania, history of, vi. 65
further accounts of, 90
circular to militia officers of Insurgents to rendezvous at Braddock's field, 90
object—a tramontane State 90
insurgents assemble at Braddock's field, 91
demand surrender of fort at Pittsburg, which is refused, and they retire, 92
house of Inspector burned—meeting at Parkinson's ferry, 93
violent resolutions—"Committee of Public Safety" appointed, 94
sub-committee appointed, who meet commissioners of U. S., 94
requisitions of Commissioners, 95
submission assented to by committee, 96
sense of the people to be taken, 97
meetings of people held with differing results, 97
Madison and Findley commended by insurgents, 98
Commissioners report force indispensable, and disaffection extending to Maryland, 99
insurgent leaders attempt to lull the Government to quiet, 102
meeting at Parkinson's ferry—resolutions of submission adopted, 103
another meeting at Parkinson's ferry—Findley and Reddick urge submission, and pledge given to sustain Excise law, 105
army advance from Carlisle and Cumberland, and ascend the Alleghanies, 107
address to frontier inhabitants, 109
good conduct of army—necessity of its numbers—insurrection suppressed, 112
Intercourse, foreign, of U. S.—bill passed to provide for, vi. 419
Internal revenue—motion to repeal, defeated, vi. 413
acts establishing, repealed, vii. 524
Intolerance of Virginia, iii. 26
reproved in Massachusetts, Maryland, New York, 27
of Clinton, George, 29

PAGE

Intolerance—
loyalists disfranchised by New York—test oath—opposed by Schuyler, iii. 29
Irish aliens, vii. 157
"United Irishmen" Society, 157
its constitution and object, 158
Izard—dissatisfaction with Franklin—is recalled at his own request, ii. 421

J

Jay, John; i. 78
envoy to Spain, ii. 427
injustice to him, 428
his view of conduct of Spain, and resolution of Congress to insist on the navigation of the Mississippi, 437
objects to new instructions as to terms of peace, 467
view of policy of France and Spain—proceeds to Paris—disregards his instructions, 468
opposes acknowledgment of independence by treaty, 475
informs England of necessity of a preliminary acknowledgment, 476
insists upon Fisheries, 483
resigns as Commissioner, iii. 81
elected Secretary of Foreign Affairs, 82
views as to commerce with Spain, 101
urges war if Mississippi occluded, 105
report that violations of treaty with England be admitted, and its fulfilment recommended, 114
views as to a General Government, iii. 246
approves proposed ratio of representation, 498
nominated as Governor of New York, and fraudulently defeated, v. 27
to Hamilton, urging his remaining in office, and keeping memoir of events, 112
Jay and King address a joint letter to Washington as to contemplated prosecution of them, 427
Washington furnishes a copy of Jefferson's report as to Genet's threat, and the joint letter burned, 428
urged to accept appointment as envoy to Great Britain by Hamilton, 534
Jay selected as envoy at Hamilton's instance, 554
nominated in message from President, 558
opposed by Monroe as being partial to English interests, 565
special embassy opposed by Burr, and appointment to a mission of a Judge of Supreme Court, 567
appointment of Jay as envoy confirmed, 567
denounced, vi. 537
urges Hamilton's appointment to a suitable command, vii. 185
anticipates attempted domination of U. S. by France, 228
refuses to convene Legislature to enact a law for election of electors by people, 361

PAGE

Jay, John—
declines office of Chief-Justice, vii. 423
Jefferson, Governor of Virginia, alarmed, iii. 168
flies from Richmond, 170
reproved by Washington, 171
his inertness, 239
exposed by Steuben, 241
Jefferson's excuse, 241
misstatement of Virginia force in service, 243
abandons the Government, and implores Washington to repair to Virginia, 249
escapes as Tarleton advances, 250
impeachment—charges preferred and withdrawn, and thanks voted, 251
commission to France revoked, 487
his parentage—early career, iii. 61
deputy substitute to Congress, full member—letter preferring dependence on Great Britain, withdraws from Congress, 62
draws Declaration of Independence—resigns seat—member of Burgesses of Virginia, and leads in its new Legislature, 63
Governor of Virginia—resigns, 64
admits his loss of public estimation, 65
chosen Commissioner to Paris, 66
Hamilton reports services not required, 67
elected to Congress, 68
his financial scheme, 73
its character, 75
report on foreign relations, 78
effort to defeat Jefferson's appointment as envoy, 80
appointed to fill vacancy caused by Jay's resignation, 82
his commercial report—objections of Jay, 88
repairs to Paris—his commercial proposals rejected, 86
conduct as to debt to France, 92
reproval by Congress, 93
fluctuating views of foreign policy of U. S., 118
view of Government, 311
important statement as to proceedings in Convention, 347
contemplates return to U. S., iv. 110
favors energetic policy in administration, 111
asks leave of absence from mission, 111
adulation to Washington, 111
efforts to secure favor of Washington, 117
opinions as to reeligibility of President, 117
return to U. S., and acceptance of State Department, 118
his policy in Paris — conspires against French Government, 119
correspondence with Thomas Paine, 120
complicity with treason and duplicity, 121
flies from France, 122
infidel opinions, 123
advocates discrimination in favor of Virginia and North Carolina troops, 129
misstates the law, 129

PAGE

Jefferson—
Cabinet opinion, showing hostility to Great Britain, iv. 185–191
official opinion as to National Bank, 243
report on uniform currency, weights, and measures, 277
violent policy as to frontier collisions and hostility to Great Britain, 317
Cabinet opinion as to apportionment of representatives—advises veto, 332
misrepresentation as to Washington; 335
report on Fisheries, 349
misrepresentation to alarm President, 362
heresy of broached by Mercer, 375
for a privileged order representing property, 444
as to constructive power, 444
approval of English constitution, 445
legislative power chief object of apprehension, 446
for a limited fiscal power, and then for a general fiscal power in Government, 447
against discrimination among public creditors, 447
for assumption of State debts, 448
approves Hamilton's financial system, 450
favors an excise on spirits, 449
advocates discrimination among public creditors, 451
opposes assumption of State debts, 452
favors emancipation of slaves, 453
proposes a restriction upon extension of slavery, 454
denounces such restriction, 455
motive of his opposition, 458
denies idea of distinction of birth or badge in U. S., 460
denies danger of monarchy, 461
his fluctuating opinions as to Constitution of U. S., 470
at heart opposed to it, 473
party to cabal as to seat of Government, 477, 478
inconsistency as to constitutionality of a National Bank, 487
approves a National Bank, 488
intrigue with Madison to induce Washington to retire at end of his first term, 492
false imputation upon Washington, 499
jointly with Madison establishes the "National Gazette," 501
efforts to win partisans, 502
journey of with Madison to Vermont, Connecticut, and New York, 506
interviews with Burr, Clinton, and R. R. Livingston, 506
asks control of post office to be annexed to Department of State, but is disappointed by Washington, 519
asks control of Mint, which is granted, 519
his course of opposition stated, 524
attachment to France, and resentment against Great Britain, 533

Jefferson— PAGE
his policy to knit together U. S. and France, iv. 534
aims at Presidency, 535
organized rivalry of State Governments, 537
his foreign policy — favors to France and injuries to England, 552
his report placing French vessels on footing of natives, 553
second report as to French tariff, 555
condemns discriminating policy of France, 555
his report on Fisheries, urging counter regulations against Great Britain, 556
urges Washington to declare no prospect of commercial arrangements with England, 557
transmits his commercial project of hostility to England to foreign Courts, 557
artful enquiries as to policy towards France and Great Britain submitted to Washington, v. 2
no demand on France as to her obnoxious decrees, 2
demand upon England as to the execution of treaty of peace, 3
enquiry of British Minister as to his powers to treat, 4
reply of Hammond, 5
misrepresentations of Hamilton's foreign policy, 5
misstatement as to Hamilton's tariff policy with respect to France corrected, 6
submits a tabular view of commerce of U. S. with France and England and their colonies, 7
answer to Hammond, 9
misstatement as to Washington disproved, 10
imputations on the American character, 10
false defence of procedures as to treaties with England, 11
Giles, Madison, Monroe, and Randolph concur in Jefferson's answer to Hammond, 12
observations by in reply to Hamilton's comments on his answer to Hammond, 15
modifications by Jefferson of this answer, 16
effects of this answer—British Cabinet defer execution of treaty, and make no advances towards commercial arrangements, 18
efforts to excite Washington's distrust of Hamilton, and to induce him to decline a reelection, 34
renewed through Washington's private secretary, 35
seeks to alarm Washington to retire, 36
topics of his letter, 37
artful interview with Washington, 38
charge of party seeking a monarchy, 49
violent reply to Washington, and abuse of Hamilton, 65
states intention to retire from office contemporaneously with Washington, v. 68
letter to Madison, giving particulars of an interview with Washington, who he states is undecided as to his retirement, 87
wish to avoid declaring excise laws as politic, 103
letter to Madison stating his being forced to appear to approve what he condemned, 103
falsity of defence of him as to French debt exhibited by Hamilton, 165
Jefferson's deceptive letter to Washington, 167
his letters to Jay, Adams, and Madison as to French debt, 169
evidence from record of Board of Treasury, 171
substituted copy of letter of Jefferson put on file, 171
his previous statement to Washington; 173
proposes to resign—but dissuaded, 173
attempts to kindle suspicions in Washington towards Hamilton; 175
intimates a probable postponement of his intended resignation, 182
artful statement by as to application of France for money, 189
announces to President his willingness to remain in cabinet—Washington's willingness to be rid of him, 199
foreign mission proposed to Jefferson, who declines it, 199
false accusations of Hamilton's views fabricated and recorded by Jefferson, 223
rejoices at popular excitement anticipated from arrival of Genet, 228
no policy known to have been suggested by—as to policy towards belligerents, 228
advises President to convene Congress, 229
objects to declaration of neutrality; 232
had previously approved neutrality, 232
his letter urging rights of neutrality, 233
announces officially policy of Government, 233
letter to Madison stating a fair neutrality disagreeable to their friends, but necessary, 234
insists on continuing obligation of treaties, 240
question of guarantee avoided by, 240
objects to circular to collectors, 242
calumniates Hamilton, 242
favors sale of French prizes in ports of U. S., 243
opinion as to means of arming French vessels, 244
advises French prizes be not restored, 253
letter to Madison, disapproving proclamation of neutrality, applauds purport of Genet's mission, 261
to Madison as to policy in cabinet, 263
opinion—arming of French vessels in U. S. cannot be prohibited, 264

PAGE

Jefferson—
frames a reply to Genet—modified in conformity with Hamilton's advice, 265
letter to Hammond—announcing policy of administration, 266
mild reply to Genet's offensive remonstrance, 271
urges Hammond to reply to his letter as to treaty fulfilment, 273
conveys to Genet Hamilton's reasons for not granting anticipations of debt, 277
to Madison as to effect of public attacks upon Washington—censuring him, 282
venomous calumnies of, against Hamilton, 283
dissuades a further loan in Holland, and misstates to Washington the condition of public funds, 285
raised questions as to application of proceeds of previous loans and still dissuades a further loan, 288
interposes with Genet as to sailing of "Little Sarah," and states his menace to appeal to the people, 295
dissuades interposing force to stop the "Little Sarah," 301
urges Edmund Randolph may be influenced, 315
reply to Genet as to British captures, 318
to Madison as to Genet's violence, 321
urges Madison to reply to "Pacificus," 321
apprises Washington of his intention to resign, 322
again urges convening Congress, 323
opposes request for recalls of Genet, 323
opposes apprising him of intention to request his recall, 324
overruled by President, 324
opposes successfully publication of letters of Genet, 324
opinion as to French privateers arming within U. S., 325
proposes a clause that would keep open the embarrassments, 325
advises extra session of Congress, 328
previously stated that questions between France and U. S. belonged to executive, 330
to Madison stating necessity of abandoning Genet—and that loan was agreed to, 331
to Madison disclosing Cabinet proceedings and sending a *cabinet paper*, 333
prepares draft of letter to American envoy in Paris desiring Genet's recall, 333
read in Cabinet, and corrected and finally agreed to, 333
to Madison—declares Genet's object to "force us into the war," 334
announces to France readiness of President to negotiate a treaty, 338
requested by Washington to defer his retirement until end of year, 339
announces to President his willingness to remain until end of year, 339

PAGE

Jefferson—
urges Madison to reply to "Pacificus," 340
sends contents of a confidential paper, 341
intimates a division of Treasury Department between two chiefs, 341
urges Madison not to take small objections to proclamation of neutrality, it being approved by people, 342
had been obliged to abandon Genet, 343
Washington strongly impressed by Hamilton, 343
contemptuous opinion of Randolph, 344
proposes a board of advice to President, 344
states Genet's doctrine as to expectations of France, 345
announces to British envoy decisions of Cabinet as to restitution and compensation, 345
reply of, to offensive letter to President, 357
to Madison, contemplating commercial retaliations against England, 364
confirms fact of Genet's threat, 364
to Madison—states silence the policy as to Genet — calumny on Marshall, 370
to Madison—his avoidance of further commitments, 373
denies power of President to change place of meeting of Congress, 380
frames instructions as to negotiation with Spain, 387
partly modified at Hamilton's instance, 391
frames a Convention as to surrender of fugitives, 391
ordered to instruct Shelby to prevent an enterprise against Louisiana, 394, 395
interview with Genet, who discloses plot against Louisiana and measures to excite Canada to insurrection, 396
Jefferson's complicity with and silence, 396
objects to dismissal of Genet, 401
declares he did not mean neutrality, but chose foreign nations "*to be doubtful*," 404
prepares draft of a message on foreign relations — favoring France—condemning England objected to by Hamilton, and modified, 409
favors publication of message, 410
letter to Washington urging publication, 411
his motives for so doing, 412
rejoices at success of Democrats in election, 414
part of correspondence with Genet omitted, 416
"National Gazette" discontinued, 421
records in Annas a false accusation of Hamilton, 425
prepares instructions to prosecute Jay and King for a libel on Genet, 426
urges Randolph, as specially rec-

PAGE

Jefferson—
ommended by Washington to institute a prosecution, though fully aware of truth of facts charged, v. 427
digests a view of foreign relations of U. S., 429
designedly withholds it, 429
misstates as to Hamilton, 429
publishes abstract of his report as to foreign relations, 430
submits to Congress a report on state of commercial intercourse of U. S., 431
presents also an explanatory letter, 432
substance of this report, 432
urges countervailing duties, 434
submits a report covering a decree of France opening West India trade, and an act of Parliament as to intercourse with her West Indies, 434
Jefferson commanded by Washington to sign a letter prepared in the Cabinet to be addressed to Genet, 436
announces to President his resignation—kindly acknowledged by President, 438
comments on his several departures from office, 438
conference with Washington as to his successor in State Department, 441
opinion of Randolph, 441
comments on Jefferson's report as to commercial intercourse of U. S., 442
postponed after much discussion, 479
letter to Randolph calumniating Hamilton, 529
violent letters of—favors non-intercourse with England, 531
to Monroe, opposing special mission to England, and assailing Hamilton, 537
to Madison, denouncing Senate, 565
to Washington—distressing British commerce, 565
view of effects of his course, vi. 37
to Washington, avowing preference of private life, 84
special mission to Madrid offered to him and declined, he declaring determination not to engage in public matters, 85
philippic by, on Washington and Hamilton, 119
censure of Washington—admits a meeting to consult about separation, and denounces excise law, 120
palliates the insurrection, 121
to Madison, avowing fixed determination to refuse all office, and plays upon Madison's ambition, 279
to Giles, on successes of French and Dutch—possible conquest of England, 279
letter denouncing Federal leaders, 279
insulting letter as to Washington, 280
letter as to Hamilton—implores the aid of Madison's pen, 280
sanctions right of visit for British seamen on American vessels, 289
remarks on Randolph's "Vindication," as evidence he had not been bribed, vi. 309
conference with, and determination to arrogate control of treaty power to House of Representatives, 325
imputation on Washington, 327
to Monroe and Tazewell as to treaty with Great Britain—violent charge by, 337
no negotiation successful during his service as Secretary of State, 349
libel by on Jay, 380
to Monroe as to agency of House in fulfilling treaties, 403, 404
to Madison—violent letter as to execution of treaty with Great Britain, 404
encloses press copy of a message recognizing right of Congress to refuse to fulfil treaties, 404
his previous cabinet opinions as to binding effect of a treaty on both branches of Congress, 405
to Mazzei, imputing monarchical designs to Executive, Judiciary, and Senate—also British influence, 406
to Monroe, deprecating influence of Washington—alludes to Volney, 407
urges that Gallatin give a view of Finances, 419
to Monroe as to appointment and rejection of Rutledge as Chief-Justice of U. S., 423
untrue motive of rejection assigned, 423, 424
to Monroe as to treaty with Great Britain, as to vindication by Randolph, and censure of Hamilton, 455
cognizant of plan to sever western territory of U. S., 474
to Washington, denying his privity to publication of confidential papers—duplicity of, 484
admits Washington's alienation from him, and states Madison's loss of his confidence, 488
to Monroe, as to Anglomen and President's influence, 489
his aspirations to Presidency, strictures upon by "Phocion," 540
letter of, advising flattery to Washington, and expectation Adams was detached from Hamilton—asserts a "British faction," 568
to Madison — attack upon Washington, 570
false imputation upon Washington as to appointment of Monroe to France, 570
affects satisfaction with his own defeat—writes a letter of conciliation to Adams—withheld by Madison, 603, 604
writes of his previous martyrdom—calumny upon Washington's policy—advances to Adams, 604
letters of obeisance to Madison—Rush—Rutledge—states his disinclination to office, deprecating a war with France, 604
to Gerry to conciliate Adams, vii. 25

Jefferson— PAGE
approves neutrality, vii. 26
to Madison as to conduct of France, 26
condemns extra session of Congress, 36
suggests a land tax contingent on State quotas, 37
claims that two of the commission should be of *persons* strongly attached to alliance with France, 39
rejoices at Gerry being one of the commission to France, 40
letters of to his adherents Gates—Burr, 66
calumniates Washington, 67
letter of to Mazzei published in France; 69
Monroe advises its acknowledgment, 71
letter consulting Madison, 72
Madison dissuades acknowledgment of it, 73
commends Monroe's "View of the Conduct of the Executive," excusing his divulging official secrets; 84
urges Virginia amendments to Constitution to be reintroduced, 98
describes judiciary of U. S. as a foreign jurisdiction, and suggests Virginia interference, 98
denounces message of Adams, 108
letters to Madison disclosing a private letter to him from Talleyrand, 126
urges him to reply to Hamilton, 127
urges Monroe to take a seat in House of Representatives, 129
sends Kosciusko on secret mission to France under a false passport obtained by his false assurance, 132
excuses Directory of France from charge of corruption, 133
charges Washington with preference of Northern States, 189
to Madison, ascribing Adams' speech to Hamilton, 237
avoids meeting Washington, 258
dissuades a scission of the Union, 258
charges a design to change the Government, 259
suggests taking from Government the power of borrowing, 260
suggests pronouncing alien and sedition laws void, and appeals by Virginia to other States, 261
prepares Kentucky resolutions, 264
apprehends being prosecuted under the sedition law, 265
urges Madison to publish his "Debates of the Convention," 286
to Monroe, asking a subscription for a political object, 287
to Gerry, urging him to violate official confidences, 288
rejoices at nomination of Murray as envoy to France, 302
reserves decision as to extremities towards General Government, waiting events, 337
conference with Madison and Nicholas abandoned, 338
gives outline of party policy, 338
advises choice of electors in Virginia by general ticket, 340

Jefferson— PAGE
contemplates right in a State of separation from Union, vii. 341
charge on Federalists of design to monarchize the Government, 369
to Monroe—prospects of Presidential election, 372
conversation with Adams as to dismissal of his Cabinet, 387
to R. R. Livingston—place in Cabinet—motive of his offer, 426
attempt of to cajole Burr, 428
his opinion of Burr, 430
states a probable parity in electoral vote between himself and Burr, and indicates Federal members whose votes he hoped for, 431
interview with Adams as to Presidency, 444
elected President—corrupt influences exerted by, 462-467
asks support of Senate, 469
his inaugural address—summary of, 469
letter of to Dickinson, 472
to Monroe—policy to conciliate, 473
to Priestley—abuse of Federalists, 473
to Giles—his policy as to removals, 475
to Rush—few instances of misconduct in Federal officers, 476
to Knox, as to Adams and Hamilton, 477
invites Paine to visit U. S. in a national vessel, 480
limited changes proposed by him—no levees—message instead of speech, and reduction of establishments—economy, 482
timid foreign policy, 483
to Monroe—apprehension of cession of Louisiana by Spain to France, 484
appoints Madison Secretary of State, Dearborn Secretary at War, and Lincoln Attorney-General, 485
contemplates Lear contingently as Secretary of Navy, 486
discontinues prosecution of Duane, 486
directs inquisition as to political opinions of a part of his adversaries, 505
appoints Gallatin Secretary of Treasury, 505
appoints Robert Smith Secretary of Navy, 506
appoints Gideon Granger Postmaster-General; 506
vacates embassies to Holland and Portugal, 506
employs a squadron as convoys, 506
removes the collector, and appoints Bishop collector of New Haven, 507
vindication by, 509
message to Congress—summary of it, 511
contradicts himself as to specification of objects of appropriation, 516
views of as to naturalization contrasted, 528
to Kosciusko as to reduction of army and navy, 532
to Gallatin, urging reformations in

PAGE

Jefferson—
Treasury system and reduction of its officers, vii. 537
hostility to judiciary, 544
denies power of deciding on constitutionality of laws, 545
motives of his hostility to judiciary, 546
insults Commodore Truxton, 577
his bribes to and advocacy of Callender, 588
value of newspapers, 593
censure of them as worthless, 594
his irreligious policy, 595
invites Barlow to write History of U. S., 595
attacks on clergy, 596
message—insidious contrast of his own and the policy of Federalists, 597
advocate of Federal Union, 597
favors reciprocity of trade, and alludes to cession of Louisiana to France, 598
fiscal condition of U. S., 598
comments on message, 599
to Livingston—France has no friendship for U. S., 606
the possessor of New Orleans the *natural* enemy of the U. S.—points to a union with England as the consequence—intimates a cession of New Orleans and the Floridas by France—it would reconcile the U. S., 607
to Dupont, stating consequences of acquisition by France, and urging him to propitiate Talleyrand, 608
message of, omits any intimation of terms of cession of Louisiana, 613
excitement in Western country—still willing to permit retention of New Orleans by France, 620
his narrow view as to purchase, and attempt to undervalue the Floridas, 621
different disposition of commercial and agricultural interests, 623
urges State Governments to improve their militia, 624
to King—urging effort to secure the friendship of Great Britain, 646
to Madison—his willingness to enter into an alliance with England, 647
his private integrity impeached, 652
message to Congress stating purchase of Louisiana and recent convention with England, 656
urges a neutral policy as to war between England and France, 657
declares purchase of Louisiana unconstitutional, 662
to Nicholas—suggests an amendment of Constitution—but readiness to acquiesce without such amendment, 663
short-sighted view as to Western territory, 669
his remark as to Congress, 675
official proscription and removals by, 676
urges impeachment of Judge Chase, 677
gives instructions as to prosecution of Burr, 680

PAGE

Jefferson—
his foreign policy reviewed, vii. 680
advances to England—condemnation of France, 681
to Madison—as to British insults, 682
message to Congress—gunboats and classing the militia—avoids responsibility of recommending an army or navy, 682
his peaceable means adopted in a non-importation act, 683
to Monroe—excusing the non-importation act, and professing neutrality, 683
rejects new treaty with England, without consulting the Senate, 684
requires a total exemption from impressment, his prior opinion, 684
effort to persuade Buonaparte to obtain cession of Floridas by Spain to U. S. contemned, 685
message asking means to be confided to him confidentially, avoiding to recommend any specific measure, 686
urges Randolph to report an appropriation to purchase Floridas, 686
proposes an embargo, 687
approved by Champagny, 688
and by Napoleon sarcastically, 689
taunting reply of Canning to his request of repeal of Orders in Council, 689
asks a small increase of army, 690
appoints Duane and other editors officers, 690
asks an act to enforce embargo, 690
letter of as to public affairs on retiring from office, 691
nomination of Short as envoy rejected, 691
complaining letter to Short, 691
pernicious results of his policy, 693
vindicatory resolution in Virginia, 714
his policy towards his opponents, 755
Burr proscribed, 756
festival to, 764
repulses Burr, 764
unanimously renominated as President, 765
adverts to scheme to dissolve the Union, 788
Jersey line mutinies, ii. 147
mutiny suppressed, 148
Johnson, Wm. S., approves Hamilton's plan, favors a Senate chosen by State legislatures, iii. 306
Judges of Supreme Court, iv. 33
Judges—proscription and impeachment of Addison and Chase, vii. 677
Judiciary—independence of, i. 16
national, iii. 264
Madison proposes its appointment by Senate—Wilson by Executive, 265
Hamilton's and Madison's views, 271
to serve during good behavior—to be appointed by Senate—its jurisdiction, 327
department opposed and defended, 416
national, iv. 25
system established, 27
power granted to revise and enforce State decisions in certain cases, 28
amendments proposed, 281
its wise constitution, vii. 543

PAGE

Judiciary—
district judges, their commissions withheld, vii. 545
proposed repeal of new judiciary act, 550
debated in Senate and repeal passed, 552
debated in House and repeal passed, 561
previously contemplated changes in judiciary plan stated, 562

K

Kent, James, Hamilton's ascendency in N. Y. convention, iii. 529
and style of eloquence, 530
Kentucky applies to become a member of the Union, iv. 202
resolutions, vii. 261
prepared by Jefferson, 264
King, Rufus—objections to a National Convention, iii. 139
report as to General Revenue, 169
opposes a General Convention, 237
Union, National sovereignty, 304
first branch to be elected by people, 307
sustains Constitution, 409
objects to a property qualification, and denounces the rich, 410
for the right of instruction by the State legislatures, 413
moves ratification of treaty with Great Britain by Senate, vi. 217
charge of divulging treaty repelled by, 223
requests Hamilton's interposition with President to obtain his appointment as envoy to Great Britain, 425
Hamilton's reply, 425
appointed envoy to Great Britain, 428
to Monroe as to decree by France against neutrals, 462
to Hamilton—orders to suppress illegal courts of prize in West Indies, and less restricted policy of Great Britain, vii. 175
to Hamilton—the subtle policy of France, 208
authorized to treat with Russia, 294
King's Mountain, battle of, ii. 161
Kingston on Hudson burned, i. 334
Knox, Henry, early patriotism at Bunker's Hill, journey to Canada, Colonel of Artillery, i. 169
views as to General Government, iii. 246
Secretary of War, iv. 34
opposes extra session of Congress, v. 328
to Shelby as to expedition against Louisiana, 395
views as to relative rank, vii. 190
declines appointment of Major-General, 202
anticipates a French invasion of U. S., 227
Kosciusko sent on secret mission by Jefferson to France, viii. 132

L

La Fayette declines an independent command, i. 408

PAGE

La Fayette—
at Barren Hill, i. 461
in command of the advance prior to battle of Monmouth, 468
obtains auxiliary army from France, ii. 15
recommends Hamilton as Adjutant-General, 141
efficient movements in Virginia, 245
statement of to Hamilton, 247
Hamilton as to liberation of, vi. 217
kindness to his son, 290
project for release of, 428
to Hamilton—intended mission of Bernadotte, vii. 368
La Luzerne, envoy from France, arrives: his character, i. 556
conference with, proposed attack on Florida, 557
conquest of Canada, 558
conferences with Congress, ii. 429
memorials to Congress, 440
conference with, 441
disapproves mission of Dana to Russia—objects to conduct of Adams—urges his conforming to views of France, 443
urges consent to a long truce and acceptance of reasonable terms by U. S., 461
conference with Congress—urges moderation as to terms of peace, 471
Lands, public, ii. 325
New Jersey and Maryland insist on a joint interest in the territory of U. S.—Virginia remonstrates, 326
makes a qualified cession, which is rejected, 327
Lands, valuation of as basis of contribution, 352, 364, 368, 369
cession of by States to U. S. recommended, ii. 523
plan for sale of, iv. 167
successive cessions of, 168
different views of policy on sale of, 168
ordinance for sale of, 169
general land-office, 170
surveyor-general, 171
commissioners, 172
bill for sale of—but rejected, vi. 182
act for sale of passed, comments, 334
Lansing opposes a National Government, iii. 268
approves the Jersey plan, 305
retires from Federal Convention, 322
in New York Convention opposes Constitution, 485
statement of Hamilton's views in General Convention, 512
proposes assent of two-thirds of Congress to loans, 514
submits a declaration of rights, 516
proposes amendments to Constitution, 517
proposes reservation by New York Convention of right to withdraw, 524
nominated as Governor of New York, vii. 769
declines the nomination, 777
Laurens, John, Col., commended, i. 496
to Hamilton, as to black levies, 532
declines especial honor by Congress, 534
killed on banks of Combahee, ii. 301
Laurens, Henry, minister to Holland, ii. 428

PAGE

Lee, Arthur, ii. 406
envoy to Spain, ii. 419
Lee, Charles, appointed a Major-General, i. 92
his character—disobedience of orders, 142
letters to Bowdoin, Franklin, and others, 146
to Reed, 149
to Washington, 154
to Gates, 160
captured, 161
joins army—opposes attack of British, 463
yields his command, and asks to resume it, 468
misconduct prior to and at Monmouth, 474
letter to Rush—invidious and offensive letter to Washington, 479
arrested—letter to Robert Morris, 480
tried and suspended from command, 481
duel with Col. Laurens—urges Gates to resign, 482
appointed Attorney-General, vi. 313
Lee, Henry, Col., surprises and captures garrison at Paulus' Hook, i. 554
commended by Washington, ii. 136
appointed to command of army against insurgents, vi. 106
Lee, Richard Henry, proposes investing Washington with dictatorial power, ii. 251
urges a second convention, iii. 445
Legislature, National, in two branches, Pennsylvania opposing, iii. 260
first branch to be chosen by people, 260
second branch by State Legislatures, 261
proposed powers of Legislature, 261
moved it be chosen by State Legislatures—second branch to be chosen by State Legislatures, 266
term of service, 266
negative on State laws proposed, 266
first branch to be chosen by people, 266
biennial term of, 307
Leslie, General, detached to Portsmouth, Va., ii. 162
Lewis, Morgan, nominated as Governor of New York, vii. 777
Lexington, battle of, i. 88
convention at, denouncing Administration and Jay's embassy to England, vi. 45
Libel—bill authorizing truth to be given in evidence defeated, vii. 735
afterward passed, 736
Liberty pole, cut down and new pole erected, i. 34
Lieutenant-General, rank of created, vii. 164
Light-house act, iv. 164
Lincoln, General, to join Northern army, i. 343
in South Carolina, 552
Lincoln, Levi, appointed Attorney-General, vii. 485
"Little Sarah," case of submitted to President, v. 294
Mifflin urges Genet to prevent her sailing, which Genet refuses, 294
refusal communicated to Knox and Jefferson, 295

PAGE

"Little Sarah"—
Cabinet opinion as to course to be adopted, v. 297
Livingston, Governor of New Jersey, attempt to capture—Hamilton's letter to, i. 526
Livingston, Edward, proposes relief and protection as to impressments of seamen, vi. 340
moves call on President for copy of instructions to Jay and of correspondence relative to treaty—seconded by Giles, 345
resolution of inquiry as to G. W. La Fayette, 346
report by, that he had received the patronage of President, and did not require assistance, 349
moves indemnity to merchants for spoliations by Great Britain, 398
moves a request on President to instruct Gerry to negotiate singly with France—rejected, vii. 154
resolutions of as to delivery of a criminal under treaty with Great Britain, 362
appointed District Attorney of New York, 504
Livingston, Robert R., Secretary of Foreign Affairs, ii. 206
condemns conduct of commissioners in negotiation of peace, 488
in New York Convention, iii. 483
favors an excise, 505
notice of, iv. 502
asks office of Washington—disappointed, 503
Hamilton's kindness towards, 504
hostility to Hamilton, 504
coalition with George Clinton—defeat of Schuyler—selection of Burr, 504
supports Clinton, v. 26
proposes issuing letters of marque against England, and conniving at French privateers being fitted in ports of U. S., 270
advises hostile measures towards, 507
mission to France offered to him—declined—wishes offer renewed, vi. 8
publishes "Decius" and "Cato" against the treaty with Great Britain—outline of, 254
letter to Washington denouncing the treaty, and reply, 257
gross abuse by of Washington, 282
Jefferson offers him a seat in Cabinet, vii. 426
declines it, 428
contempt in France of U. S., and Jefferson deemed mad, 610
announces French expedition to occupy Louisiana, 610
urges further instructions, 611
states cession to France, proposing a cession by her to U. S. of New Orleans, 611
propositions declined by Talleyrand, and asks explicit instructions, 612
urges necessity of raising a force and of an alliance, 613
to Madison, urging instructions—stating improbability of a purchase from France of Louisiana, and expedition under Bernadotte, 625

PAGE

Livingston, Robert R.—
states no prospect of a purchase of Louisiana—probable war of England and France, vii. 640
memorial to Bonaparte on rights of U. S. under treaty with Spain and probable alliance with England, 648
Talleyrand assures the friendship of France, as neighbor to U. S., 648
urges immediate ratification of treaty with France, 655
letter to Madison, commenting on the duplicity of his instructions, 655
Loan—authorized to pay debt to Bank of U. S. and instalments of foreign debt, vi. 414
to France encouraged, vii. 540
opposed by Hamilton and abandoned, 541
Local controversies, iii. 121
Logan, sent by Jefferson on a secret mission to France, vii. 146
conferences with Talleyrand, 146
urges pacific measures on France, 147
comments on Jefferson's envoy, 147
efforts of to influence Congress, 237
Louis XVI. ascends throne of France, ii. 402
his character, 405
Louisiana, hostile expeditions against resumed, vi. 44
instructions to Wayne, 45
acquisition of urged by Hamilton, vii. 210
essential to permanency of Union, 211
acquisition of Louisiana and Floridas again urged by Hamilton, 322
Floridas, projected occupation of by France, 474
cession of to France urged by Democratic press, 477, 478
cession of by Spain to France known in U. S., 604
reluctance of England to its acquisition by France, 605
proclamation prohibiting deposit at New Orleans and closing Mississippi, 613
resolution calling for official documents as to cession—rejected, 615
address to Bonaparte on value of possessing the Mississippi and the controlling power of France, 622
resolutions for immediate armed occupation defeated, and employment of militia authorized, 633
joint instructions to Livingston and Monroe to purchase, 642
retrocession of by Spain to France published, 645
Lousat sent to New Orleans to receive possession, 645
England announces precautionary measures as to military expeditions in ports of France and Holland, 647
Bonaparte informs England his expedition in Dutch ports destined for America was recalled, 648
ultimatum of England communicated to France, 649
Rose's resolutions communicated to Talleyrand, 649
determination of France to sell, 650
and treaty for purchase concluded, vii. 650
opposite views as to effect of acquisition, 654
Spain enters caveat against the sale by France, after having announced to U. S. her retrocession of it to France, 656
terms and power of treaty for purchase discussed, 658
treaty ratified and bill passed by House to carry it into effect, 659
bill to erect a government in, 659
guarded provisions as to slaves, 661
New Orleans delivered to U. S., 676
Lovell's censures of Washington, i. 500
Lowndes Rawlins—opposes Constitution, iii. 431–434
Loyalists—
amnesty to insisted on by Great Britain, ii. 482
policy of France in relation to, 484
Lutherans, i. 7

M

Madison, James—
proposes impressment of supplies for army, ii. 111
recommends raising black regiments, discountenanced by Washington, 200
in nomination as Secretary of Foreign Affairs, 202
proposes to coerce delinquent States by Federal forces, and to distrain their property and that of their citizens, 238
as to Western territory, 327
misstatements, 361, 368, 374, 398, 439
vindicates right of navigation to Mississippi, 437
draws instructions to recede from previous claim, 439
instructions to John Adams, 447
moves and obtains revocation of his commission, 448
draws new instructions as to treaty of peace, 461
resolution by, in conformity with the suggestion of France, 470
sustains proposed censure of Commissioners in negotiating treaty of peace, 489
in favor of a revenue of limited duration, 515
as to proposed treaty with Great Britain, iii. 55
as to Jefferson's anxiety to proceed on mission, 67
retires from Congress, 68
proposes Jefferson's special mission to Spain, 106
to Washington as to proceedings of Congress relative to a convention, 247
contradictory misstatement by, 248
views as to a new system of government, favors negative by Federal head on local legislatures, 249
condemned by Jefferson, 249
further views—letters of Madison to Randolph and Washington, 250

PAGE

Madison, James—
excuses for violating rules of General Convention, iii. 257
proposed powers of National Executive, 261
favors a plural executive, 263
urges choice of one branch of legislature by people, 265
favors negative by National Legislature of State laws, 266
as to powers of National Legislature, 271
his misstatements exposed, 284
for permanency and stability in Senate, 311
declares States not sovereign, only political societies, and urges a proportionate representation, 313
favors a Southern predominance in Senate, 321
for a President during good behavior, 340
supports Constitution, 466
to Hamilton as to course of Virginia, 470
defends fiscal power of Constitution, 471
denies validity of conditional ratifications, 525
final seat of Government on Potomac, 544
extreme opinion, 545
defeated in election as delegate to Congress, 548
opinion of Hancock and Adams, 564
for protecting duties, iv. 4
for temporary funds, 5
denounces the Senate, 7, 8
favors large executive power 11
for authorizing Secretary of Treasury to report plans, 19
favors higher pay to Senators, 21
advocate of implied powers, 24
opposes power of expounding Constitution by national judiciary, 26
would exclude State courts from cognizance of acts of Congress, and subsequently sanctions it, 27
advises an excise on distilleries and increased duties on liquors—a land tax—a stamp tax—favors a sinking fund, 62, 63
urges discrimination among public creditors, 75
previous condemnation of, 82
opposes assumption of State debts, 93, 104
subsequently urges assumption of State debts, 107
opposes extra duties on foreign vessels—in favor of a navy 108
urges Jefferson to accept State Department, 113
opposes settlement of accounts, 135
disapproves and votes for excise duty, 138
advocates increased excise duty, 213
opposes a National Bank, 232
his veracity questioned, 237
sanctions a National Bank, 264
reports address of House, 325
prepares answers of President, 325
misstatement by him, 331
denies President's power to establish post-offices and post routes, 341

PAGE

Madison, James—
assails Hamilton's report on manufactures, iv. 358
opposes bounty on fisheries, and votes for it, 361
his inconsistency, 365
opposes further assumption of State debts, 379
effort to prevent references to Secretary of Treasury, 391
his political views, grounds of opposition to Washington's Administration, 422
as to source of legislative power and its political authority, 423
as to National Executive, 424
opinion as to National Judiciary, 425
favors a negative in Congress over all State laws, 426
for a strong Federal Government, 427
for a coercive power over States, 427
as to mode of construing Constitution, 429
as to power of removal of officers, 430
as to Executive power granted by Constitution, 431
discretionary power of Congress, 432
votes for annexation of titles to offices of President and Vice-President, 436
motive of his opposition, 458
denies danger of a monarchy, 460
his disappointment and jealousy, 467
encouraged by opposition of Virginia, 468
efforts to place seat of Government in Virginia, 475
inconsistency of, 476
presents resolutions of Virginia disapproving fiscal system, 479
outline of his opposition, and attempt to deceive Washington and defeat Hamilton, 521
his successive defeats by Hamilton, 535
approval of Jefferson's answer to Hammond, v. 17
factious opposition to army, 142
urges postponement of bill to redeem the debt and reimburse loan due to Bank of U. S., 143
favors memorial of officers of old army asking compensation, 155
draws resolutions as to Hamilton's conduct, 181
groundless censure of Hamilton, 197
violent inculpation of Hamilton, 205
stigmatized by Smith and Boudinot, 205, 206
opposes payment of loan to Bank of U. S., 210
disapproves an impartial neutrality, 243
condemns policy of Washington, and denies his power to proclaim neutrality, 263
to Jefferson condemning proclamation of neutrality, with comments on Washington, 283
writes "Helvidius" in reply to "Pacificus," 367
enquiry as to President's sense of neutrality, 367
misstatement of Hamilton's views, 368
denies President's power to pro-

PAGE

Madison, James—
claim neutrality — exercises a similar power, v. 369
measures to repel injury to party by Genet, 377
denies power of President to change place of meeting of Congress, 381
prepares address of House—approved, 419
opinion at one period in favor of neutrality, 420
to Jefferson as to his probable successor, 440
opens debate in defence of Jefferson's report on Commercial intercourse, 446
second speech on Commercial intercourse, 462
third speech on Commercial intercourse, 477
letter to Jefferson as to measures of defence proposed by Hamilton, 516
charge of pusillanimity on Federalists, 517
letter to Jefferson assailing Washington's policy, 561
objects to a loan in anticipation of revenue, 576
favors Burr as envoy to France, vi. 9
misrepresentation by, as to Hamilton's authority to effect loans, exposed, 28
frames address of House, omits allusion to Wayne's victory, 117
invidious intimation as to foreign policy, 118
to Jefferson—submission of insurgents, 118
imputes mentorship of Washington to Hamilton, 119
sneer at Ames' reelection, 119
vindication of Democratic societies, 121
sneer upon Knox, 122
sophistical defence of Democratic societies, and letter to Jefferson, 131
proposes to postpone indemnity for injuries to insurgents, 135
moves that regular troops be not employed to enforce the laws, 147
subsequent approval of, 148
objections of, to proclamation of thanksgiving, 150
opposes permanency of internal duties, 156
opposes plan being adopted for paying debt by appropriating temporary revenues, 161
to Jefferson, assailing Hamilton and Boudinot, 166
hostility of, to Hamilton, 172
hostility of, to Hamilton, 213
to Jefferson as to successor to Washington, 278
course as to address of House, 326
supports call for papers in negotiation with Great Britain, 356
view of treaty power, 362
prior commitments to opposite opinion, 366, 368
to Jefferson—impeaching Washington, 380
exposure of, by Washington, 380
speech on Washington's message

PAGE

Madison, James—
refusing papers to House of Representatives, vi. 382
inconsistent opinions as to interpretation of Constitution of U. S., 383
speech against provision stipulated in treaty with Great Britain, 397
to Monroe, as to passage of resolution to carry treaty with Great Britain into effect, 401
Washington's loss of confidence in him stated by Jefferson, 488
sends to Washington a draft of a Farewell Address, 493
comments on this draft, 494
changed relations of, with Washington, 570
to Jefferson—charging an intended war with France and alliance with Great Britain, 573
objects to a National University, 595
to Jefferson — states Adams' friendly disposition towards him and enmity towards a part of Federalists, 602
urged by Democrats as envoy to France, 606
to Jefferson dissuading avowal of his letter to Mazzei, vii. 73
states Callender's charge upon Washington of advising the extermination of the Tories probably well founded, 73
contrast by, of Washington and Adams, 91
condemns no disclosure of despatches from envoys to France, 127
denounces the disclosure as a libel on France, and deprecates passage of naval bill, 128
denounces Adams, 129
to Jefferson imputing Adams' speech to Hamilton, 236
draws Virginia resolutions, 267
to Jefferson as to policy of these resolutions, 275
declines publishing his "Debates of Convention," 286
prepares protestations against the administration and acts of Congress, 338
nominates Monroe as Governor of Virginia, 338
vindicates Monroe's conduct as envoy to France, 339
report on alien and sedition laws, 341
to Monroe, urging equal vote in Virginia for Jefferson and Burr, 424
revolutionary proposition by, as to choice of President, 431
appointed Secretary of State, 485
to Livingston—to dissuade the acquisition of Louisiana by France—if bought, not to irritate her, and to try to induce her to cede the Floridas, 605
complaints against France—proposes assuming the restitutions of, and debts due to American citizens as part purchase money of Louisiana, 609
to Pinckney—urging a cession by Spain of territory west of Mississippi—offering a guaranty to

PAGE

Madison, James—
her of that beyond the Mississippi, vii. 610
to Pinckney, requiring Spain to countermand prohibition of deposit at New Orleans, 613
his withholding commissions of judges declared unlawful by Supreme Court, 652
willing to form an alliance with England, 652
insulted by John Randolph for urging money to be given to France or Spain, 686
Manufactures—protection of, iv. 3
report on, by Hamilton, iv. 3
Manufactures, Domestic—
past encouragement of, applauded, but no protection granted, vii. 673
Marbois, M. de—
arrives in U. S., i. 557
as to terms of treaty of peace—influence of France, ii. 463
Marion, ii. 120
his services, 158
Marshall, John, sustains Constitution, iii. 460
motion against a discussion of treaty by assembly of Virginia defeated, vi. 313
abuse of, by Jefferson, 314
to Hamilton—as to course of Virginia in respect to treaty with Great Britain, 397
return and reception in U. S., vii. 150
appointed Secretary of State by Adams, 387
appointed Chief-Justice of U. S., 423
to Hamilton, as to Jefferson and Burr for office of President, 440
Martin, Luther, favors grant of new powers to Confederation, iii. 306
Maryland seizes public arms, i. 88
settlement of, by Roman Catholics—toleration coeval with colony, iii. 423
Episcopacy established, 424
Assembly and Senate of, chosen by freeholders, 424
her conservative policy, 425
ratifies the Constitution, 426
proposed resolution against assumption of State debts, iv. 480
Mason, George, opposes Constitution, iii. 446
fears of consolidation, 465
Mason, of Virginia, violates injunction of secrecy by Senate, vi. 222
Massachusetts—
provincial Congress—its proceedings, organization of troops, and manufacture of arms, i. 84
provincial Congress—its representations to England—appeals to clergy—seizes public money—raises and marches a force to Boston, 88, 89
jealous policy of, iii. 433
proposition to abdicate the Union—firm adherence to justice—grants impost to Congress, 152
insurrection, 153, 156
appoints Commissioners to General Convention, 243
its origin and progress, 399
Republican character, 401

PAGE

Massachusetts—
ecclesiastical polity, iii. 402
jealousy of power, 403
opponents and friends of the Constitution, 404
proceedings of Convention, 407
ratifies the Constitution, 418
urged to prevent operation of Bank of U. S. and question raised as to suability of a State—Hancock convenes Legislature, v. 313
votes of for Adams, sixteen—for Pinckney, thirteen, vi. 575
motion to apportion representatives to number of free inhabitants, vii. 300
Mazzei—publishes Jefferson's letter denouncing Federalists, vii. 69
comments in "Moniteur," 69
McDougall's address declared a libel, i. 33
arrested—a Scotchman, 34
addresses the people—public honors to, 35
indicted, 36
his constancy, 38
Habeas Corpus granted, 38
presides at meeting in fields, 55
elected Secretary of Marine and declines it, ii. 206
McHenry, James, appointed Secretary of War, vi. 313
dismissed by Adams as Secretary at War, vii. 384
letter of, as to character of Adams, 400
Mediterranean fund, vii. 670
Mediterranean trade—protection of, iv. 202
Mercer fort abandoned, i. 362
Mercer—questions right of Government to make permanent provision for a debt, iv. 375
Mifflin, General—
character, i. 374
misconduct and hostility to Washington, President of Board of War, 375
letter to Gates, 377
again engaged in the cabal, ii. 116
Governor at feast held by French sympathizers, v. 311
drafts a body of men to occupy a post at Presqu' Isle, and difficultly persuaded to suspend it, vi. 63
reluctance to cooperate in suppressing insurrection against excise laws, 74
interview with President, 74
addresses letter to him to deter measures of coercion, 75
reply by Hamilton, 75
issues a proclamation to insurgents, 76
explanatory reply to Hamilton's letter, 77
answer by Hamilton, 77
irresolute conduct, 81
Fauchet's opinion of, 82
Military Academy—
Hamilton's plan, vii. 351
engineer corps to be stationed at West Point as basis of a Military Academy, 365
Jefferson proposes increase of cadets, 365
cadets increased, and three professorships created, 366

PAGE

Military conclave at Alexandria—
propose common fund, i. 16
establishment fixed, iv. 173
proposed increase of army discussed, 385
bill for increase passed, 387
Militia—
of New England repair to Boston, i. 88
classing and disciplining, ii. 552
plan by Knox, iv. 204
discussion of, 205
inspector of rejected, 205
law discussed and passed, 408
act to provide for calling forth militia, 411
motion to reduce pay of—report for better organization of, vi. 139
views of Wadsworth and Smith, 141
bill fails, 143
bill for calling them into service, and power of judging exigency conferred on President, 143
plan for new organization by Hamilton, vii. 252
Military supplies—
plan for providing by Hamilton, vi. 144
act to carry it into effect passed, 146
Mint—
report on by Hamilton, iv. 271
Jefferson's report on, 277
Hamilton's plan adopted, 279
act establishing a mint and a national coinage passed, 400
act annexing the control of the mint to Treasury Department, with provisions as to standard and seigniorage, vi. 188
Mirabeau to Hessians, i. 217
Miranda—
to Hamilton on his fiscal system, iv. 285
efforts to liberate South American, vii. 211
opens his views to Hamilton, 212
negotiations in Europe, 212
despatch to Adams urging coöperation of the U. S., 214
introduces bearer of despatch to Hamilton, 214
to Hamilton—his views approved by British Ministry, 220
Mississippi—
its free navigation to be required in treaty with Spain, ii. 425
immediate navigation of to be yielded by Spain, v. 387
Spain avows purpose to hold exclusive navigation of, 490
navigation of—Committee of Senate report the right to, well asserted, vi. 44
President requested to disclose points of to Governor of Kentucky, 45
its navigation confirmed to Great Britain, 267
free navigation of secured by treaty with Spain, 354
Monarchy—
in Southern States, iii. 279
favored by loyalists—apprehended scheme, 331
charge against Federalists, iv. 459
danger of in U. S. denied by Madison and Jefferson, 460, 461
Hamilton vindicated, 462

PAGE

Monroe, James—
opposes Constitution, iii. 408
resolutions offered by, against act providing for debt, iv. 230
hostility to Hamilton, v. 378
to Washington, opposing Hamilton being envoy to England—Washington calls for written statements of facts—not given, 537
motion by to suspend fourth article of definitive treaty with England refused—Virginia alone in affirmative, 571
appointed envoy to France, vi. 9
comments upon, 9
presents colors of U. S. to Executive Directory, 381
narrative of his mission in France, 430
conduct as to Mississippi, 438
urges loan to France, 439
course as to recent treaty with Great Britain, 442
Pickering cautions Monroe to avoid any thing that may invite France to act on expectation that U. S. would become a party to the war with England, 454
menaces by Executive Directory of hostile mission to U. S., 457
determination to recall him announced to him, 469
letter of Washington to him, vindicating his policy towards foreign nations. 469
comment of DeWitt on Monroe's conduct, 469
extract from Thiers as to Washington's policy to France, charging ingratitude on part of U. S., 469
Monroe removed, 471
had intimated an attempt by France upon Canada, to be united with Louisiana and Floridas, 473
to Madison—Washington charged with ingratitude to France, vi. 537
day for his reception appointed, vii. 10
parting speech—his sympathy with France, and approval of her Constitution, 11
reply of Barras, 134
letter to Genet commending him, 134
public dinners to on return to U. S. by his partisans, 74
demands of Secretary of State an explanation of his recall, 74
correspondence with Pickering, 75
prepares a "view of the conduct of the Executive," 83
Washington's comment, 83
envoy to London, succeeding Rufus King, 584
associated with Livingston as envoy to France, with ulterior commissions to England and Spain, 618
comments on his mission—his declaration against extension of territory of U. S., 619
prepares joint instructions to Livingston and Monroe—purchase of New Orleans and the Floridas, with reservations to France, 643
to Pinckney, to intimidate Spain, 643
to Monroe, urging patience—tem-

PAGE

Monroe, James—
porary waiver of right of deposit, vii. 644
England announces her desire to prevent acquisition of New Orleans by France, 646
explanation of purchase of whole of Louisiana—its future, 651
Morris, Gouverneur—
for an aristocracy, iii. 319
special agent to Great Britain, iv. 37
his ill-judged conduct, 183
appointed envoy to France, v. 18
his mission opposed, 19
instructions to, 20
request by France for his recall, vi. 7
part of his correspondence presented in confidence to Senate, 11
to Hamilton, informing of proposed hostile mission by France, 457
to Hamilton—states a plan to prevent any election of President, vii. 430
eastern preference of Burr, 447
Morris, Robert—
elected head of Treasury Department, ii. 202
vindicated by Hamilton, 503
financial policy, 517
his continued services required, 527
Muhlenburgh—
chosen by Democrats Speaker of House of Representatives, v. 415

N

National Assembly assumes sovereignty of France, iv. 548
forms a Constitution, 548
National debt—report, ii. 523
Hamilton's views stated, 525
National Government—its necessity, ii. 79
successive conventions, 80
Naturalization—act passed, iv. 173
second bill reported by Madison, vi. 137
act—Hamilton's view of policy, vii. 149
passed, 150
Hamilton's opinions, 529
term of residence abridged, 530
Naval Peace Establishment bill passed, vii. 466
naval officers retained on half-pay, 466
Navigation—
extra duty on foreign vessels rejected, iv. 100
Navy—agent of marine, ii. 551
proposal to establish a naval force to protect against Algerine corsairs, v. 487
opposed by Democratic leaders, supported by Federalists, 490
bill passed and approved by Washington, 494, 509
bill to complete two frigates passed, vi. 392
increased to three by Senate, and passed by House, 412
bill to man and equip frigates, vii. 43
to fit nine 20-gun ships, 47
"Act providing for a naval armament" passed, 52
additional armament of vessels authorized, 135
employment of navy as convoys opposed, 136

PAGE

Navy—
"Department of Navy" established, vii. 137
act for increase of, 255
Giles opposes reduction of, 531
Negroes, emancipation of, i. 531
Netherlands, Now, i. 2
Neutrality with foreign powers, v. 214
proclamation of objected to by Jefferson, v. 232
a draft framed by Jay, 235
the draft by Randolph modified by Hamilton, 235
denounced by Democratic presses, 248
Washington also denounced, 249
memorials by British minister, 253
again denounced as hostile to France, 270
Neutral trade, immunities to under treaty with Great Britain recognized by her, vii. 671
Nevis, Hamilton's birthplace, i. 40
Nicholas, John, to Washington denouncing mission to England and Hamilton's appointment, v. 536
opposes indemnity for injuries by insurgents, vi. 134
moves to reduce army, 147
proposed amendment to address of House of Representatives, vii. 32
averse to a navy, 51
moves repeal of acts creating the provisional army, 359
repeal rejected, 362
New emission bills, provision for defeated, vi. 179
motion making provision for them rejected in Senate, 182
New England intrusions, i. 5
favors Gates, 251
hostility to Schuyler, 253
monarchical tendencies of denied, iii. 157
denounces Southern domination, vii. 799
New Hampshire, tender laws—distress of—insurrection, iii. 165
adopts Constitution, 499
New Jersey, provisional treasury seized, i. 88
proposes organization of a Federal Government, 111
refuses to comply with requisition of Congress until other States concur in a general revenue system or forbear partial legislation, iii. 177
plan of constitution proposed—its scheme, 267
sustained by Patterson, 268
declared inadmissible, 306
settlement of controversies in—
adopts Constitution unanimously, 389
New London burned, ii. 261
New York, advantages, i. 2
settlers—religion, 4
government of, 5
capitulates, 5
recovered and retaken, 6
English laws, 6
urges no tax without consent of people, 17
appoints corresponding committees, 17
urges union of colonies, 18
her Assembly suspended, 20
again urges union of colonies, and denies legislative power of Parliament over American colonies, 21

	PAGE
New York—	
disturbances in,	i. 22
Assembly—its proceedings,	22, 23
supply bill negatived by Crown,	23
prorogued,	24
dissolved,	28
publishes its proceedings,	28
New Assembly—its proceedings —prorogued,	29
Committee in reply to Boston, urges a Continental Congress,	53
Assembly—its timidity—final adjournment,	82
elects a Provincial Congress,	83
memorial of rejected by Parliament,	86
people break open armory—seize keys of Custom-House — battalion of royal troops surrenders —spirited address,	89
orders omission of paper money,	94
orders honorable reception of Washington and of Tryon— wishes accommodation—plans a conciliation,	95
denounces Quebec bill,	96
violent commotions—invites Connecticut troops to her aid,	99
forms an artillery company,	102
organizes her militia,	102
avows her loyalty,	103
the British land,	123
improvidence of Putnam,	125
New York captured,	126
forms a Constitution,	189
discontent with Eastern States,	246
condition of New York,	247
authorizes full power to Congress for prosecution of war, and that Commander-in-Chief be directed to use military force on a delinquent State,	ii. 112
projected attack on,	138
abandoned,	141
preparations for siege of,	156
New York line disposed to mutiny —restored to order,	148
policy of, as to power over commerce—discriminating act opposed by Schuyler,	iii. 149
issues bills of credit declared a legal tender—discriminating provision for public creditors,	151
policy as to revenue power,	173
restricted grant to Congress,	175
urged by Congress to convene Legislature to grant an efficient impost,	177
Legislature meets—its proceedings,	180
instructs Congress to call Convention,	240
Republican club of, opposes Constitution,	447
Clinton opposes Constitution,	448
Legislative proceedings in relation to,	449
anti-Federal opposition and violence,	450
riot in, Hamilton aids in quelling it,	454
Convention meets,	483
ratifies Constitution unconditionally,	527
Legislature defeats choice of Presidential electors,	547
election of Governor,	v. 23
New York—	
excitement in through French influence—festival there,	v. 352
French fleet repair there—met by Genet—gratulatory meeting and address,	353
Chamber of Commerce—resolutions by, approving proclamation of neutrality,	354
meeting of citizens, approving proclamation of neutrality,	354
electoral vote of secured to Jefferson in spite of a contemplated infidelity,	vii. 424
political feuds of,	757
repeated duels in,	762
political feuds—Clintonians and Livingstons,	797
city charter—bill violating it passed,	639
Norfolk burned,	i. 106
Non-importation—associations proposed by New York,	i. 21
non-importation agreement by New York merchants,	27
Boston concurs—New York and other towns abandon them,	37
act passed,	vii. 683
Non-intercourse resolutions passed in House,	v. 556
defeated in Senate,	557
resolutions amended by Madison, and bill framed accordingly, passes House,	561
rejected by Senate,	564
North Carolina—rejects an act repealing laws inconsistent with treaty,	iii. 31
situation, settlement, and character of population,	535
great division of political sentiment—internal violence,	536
Convention postpones acting upon Constitution,	539
accedes to the Union,	iv. 65
opposed to Congress interfering with State papers or securities,	100
stigmatizes assumption of State debts and denounces excise,	480
Northwestern Territory—act for Government of,	iv. 173

O

Ohio—admitted into Union,	vii. 602
Orange, Fort—now Albany,	i. 3
Oswald—	
mission of, as to terms of peace,	ii. 465
authorized to treat with *colonies* approved by Vergennes and assented to by Franklin,	472
finally commissioned to treat with the United States of America,	476
treaty concluded without disclosure to France,	481

P

"Pacificus" by Hamilton—its scope,	v. 365
reply to by Madison—"Helvidius,"	367
Paine, Thomas—	
proposed by Jefferson and Ran-	

PAGE

Paine, Thomas—
dolph as Postmaster-General—rejected by Washington, iv. 515
coldness of U. S. condemned, and fervor to him of French applauded, v. 219
display of popular regard in France, 220
calumniates Washington, vi. 537
invited by Jefferson to U. S.—his gross abuse of Washington and of Adams, vii. 480
Paris, treaty of, i. 15
Parker—denies French influence, and imputes English influence, v. 520
Parliamentary supremacy, i. 15
Parliament—claims right of regulating trade, and levying taxes, i. 16
act of, prohibiting all trade with colonies, and authorizing captures—subsidizes foreign troops, 108.
Parties, political, in U. S.—
origin of, motives, and opinions, iv. 417
Southern party, 459
respective geographical parties, 480
progress of parties, 516
hostility to Hamilton, 518
history of Democratic party by Hamilton, 520
tendency of popular prejudices, 541
influence of French Revolution, 542
Pastoret—
vindicates conduct of U. S., vii. 14
Patroons, i. 3
Pay of Senate and Representatives, iv. 20
proposed discrimination defeated, 21
Pennsylvania—
proclaims martial law to procure supplies for army, ii. 112
line mutinies, 146
Committee of Conference appointed and terms made, 147
settlement and political condition, iii. 374
opposition to Constitution by seceders, 382
discussion of in State Convention, 383
Constitution not a compact, 385
ratification of, 387
violent opposition to Constitution, 453
authorizes enlistment of troops—Mifflin advised to suspend it—commissioners appointed to establish a port near Presque Isle, vi. 63
suspended at instance of Washington, 63
first insurrection, 64
House of Representatives' resolution against proceedings to collect excise, 74
resolutions declaring disapprobation of resistance to French violence—defeated, vii. 109
second insurrection in, 313
insurgents overawed, 314
compromise and one democratic majority of electors conceded, 410
Pensacola, vii. 611
Petitions of English towns urging accommodation—also from West Indies, i. 86
Philadelphia—alarm and discord, i. 185
Pickens, ii. 120

PAGE

Pickering, Timothy—
Postmaster-General in place of Osgood, iv. 515
appointed Secretary of State, vi. 313
surprised at despatches of Munroe and cautions any intimations to France that might involve U. S. in the war with Great Britain, 454
despatch censuring Monroe, 461
replies to Adet, 547
review by, of conduct of France, 572
vain attempts to impeach his integrity, vii. 534
prepares a statement of treatment of Pinckney at Paris, 19
answer of to De Yrugo, 64
refuses to give Munroe an official explanation of his recall, 75
offers to give reasons as an individual, 76
reply to Hamilton as to policy of administration towards France, 106
to Hamilton—unfounded clamors as to British captures—army ought to be raised, 175
to Washington—Adams' hostility to Hamilton—asks his interposition with him—importance of Hamilton being in service, 181
to Hamilton—*he* only thought of at first to command new army, 194
to Washington—Adams' personal hostility to Hamilton, 195
calumny against refuted, 396
Pinckney, Charles—plan of Government, iii. 259
supports Constitution, 432
Pinckney, Charles Cotesworth, leading supporter of Constitution in South Carolina, iii. 433
denies State sovereignty, 439
Monroe notified by Directory no envoy of U. S. received until redress of grievances given to France, vii. 6
his overtures disregarded, 6
his credentials not acknowledged, 7
insolently ordered from France, 8
menaced with being handed to police, 9
receives official notice to leave France, 13
accepts appointment of Major-General, 202
his opinion of Gerry, 207
will not permit South Carolina to withhold her vote from Adams, 409
Pinckney, Thomas—
appointed envoy to Great Britain, v. 18
memorial against British instructions, 383
appointed envoy to Spain, vi. 352
concludes treaty with, 354
resigns mission to London, 425
contemplated as candidate for Presidency of U. S., 425
brought forward by Federalists as candidate for Vice-Presidency, 538
unfair dealing towards, of friends of Adams, 576
Political divisions of States, Federal and Democratic, vii. 496
Ports and harbors of U. S.—
bill to fortify them passed, v. 494
bill for defence of passed, vii. 47

PAGE
Posts, frontier—demand as to their evacuation, v. 272
Postmaster-General—Thomas Paine urged by Jefferson and Randolph to fill this office, iv. 515
Col. Pickering appointed, 515
Post-office Department, iv. 102
power of President to establish post-offices and post-roads denied, 102
power of President discussed, 340
act passed designating routes and prescribing duties and powers of Postmaster-General, 343
Post-offices and post-roads—act to establish passed, v. 591
Post-roads—amendatory act as to, postponed by Senate, vi. 419
President of U. S.—
successor of to be declared, iv. 217
act passed declaring who should be successors in case of vacancy and regulating elections of President and Vice-President, 344
tendency of power in U. S. to Executive, vi. 41
influence of his personal character, 42
question as to power to ratify treaty absolutely, 221
power of appointing officers—opinion of Hamilton, vii. 254
election of Jefferson, 459
final vote, 460
corrupt influences by Jefferson, 462
Press, liberty of, i. 10
its courage, 26
Provost, General—crosses into South Carolina, i. 551
Prisoners, exchange of, i. 445
Prize questions—Court of Admiralty decide against its jurisdiction, v. 293
Prizes, sale of in ports of U. S.—
bill to prohibit passes House—is amended in Senate and postponed by House, vi. 416
Privateering—bill prohibiting it, vii. 43
Prussia concludes a treaty with U. S., iii. 87
Putnam, Israel—a Major-General, i. 92
misconduct in Highlands, 321-3
reproved by Washington, 359
Washington's censure of, 486
Putnam, Rufus—dismissed by Jefferson, vii. 676

Q

Quebec assaulted and Montgomery slain, i. 105

R

Randall's Life of Jefferson—
its accuracy denied—has no title to confidence, iv. 497
important misstatement by exposed, vi. 85
attack on Wolcott—vindication of by Washington, 248
Randolph, Edmund—
view as to new Constitution, iii. 250
propositions for a Government, 258
for a plural Executive, 263
PAGE
Randolph, Edmund—
first opposes, then sustains Constitution, iii. 446, 465
Attorney-General, iv. 31
official opinion on National Bank, 242
urges Washington to consent to re-election, and vindicates policy of Administration, v. 69
opposes prosecutions of insurgents, 104
his erroneous course, 105
opinion as to French prizes and privateers, 243
against restitution of prizes, 254
Jefferson to Madison, urging he may be influenced—his opinions quiet Washington, 315
opposes extra session of Congress, 328
Jefferson's comments on Randolph's course, and contemptuous opinion of him, 344
appointed Secretary of State, 441
views President as being in favor of neutrality, and such the meaning of the proclamation, 403-4
prepares paragraph for speech, which is preferred, 405
declines prosecuting Jay and King for a falsely alleged libel on Genet, 427
opposes Hamilton being envoy to England and advises a mission—not diplomatic, 533
consults French envoy as to mission to England, 535
urges preparations for war and postponement of appointing an envoy, 536
submits draft of instructions to Jay, 567
reply to Hammond as to British orders violative of neutrality, vi. 3
somewhat modified at Hamilton's instance, 6
equivocating opinion as to Hamilton's exposition of his authority to effect loans, 21
dissuades change in destination of loan, 47
advises a mission to Europe to concert cooperation with Denmark as to neutral rights, vi. 51
proposes to instruct Jay to establish by treaty a concert with Sweden and Denmark, 51
doubts legality and expediency of coercing insurgents against excise law, 70
advises precautionary measures, 72
hastens to Fauchet—states danger of a civil war, and asks money, 72
opposes promulgation of Hamilton's report on insurrection, 77
offers Jefferson mission to Spain, 86
Jefferson's reply refusing it, 87
attempt to excite feeling in Washington towards Hamilton, 101
frames part of instructions to Jay, 200
objects giving power to Jay to sign a treaty to be ratified, 201
states to Jay his objections to pending propositions as to treaty with Great Britain, 212
dissuades President ratifying treaty, 219
"Calm Observer" as to treaty ascribed to, 234

PAGE

Randolph, Edmund—
continued opposition to ratification of treaty, vi. 246
his misconduct exposed, 246
resignation and letter to President, 247
vindication by—demanded of him, 300
asks President for copy of an intercepted letter of Fauchet, 300
interviews with Fauchet and certificate by, 301
further inquiries of President as to his knowledge of documents, 301
inquiries of Wolcott as to papers 302
vindication by and insulting letter to Washington divulging confidence, 303
to Madison assailing Washington, 309
to Washington showing his withdrawal of confidence from Jefferson, 489
Randolph, John, moves leading resolutions—reduction of civil and military establishments and displacement of Circuit Judges, vii. 521
notice of inquiry as to alterations in Judiciary Department and as to selection of juries, 549
moves call for information as to terms of cession of Louisiana, 614
timid resolution as to interruption of deposit at New Orleans and assurance of a bold purpose, 617
indignant at duplicity of Jefferson, 686
interview with and insult to Madison, 686
Rawdon, Lord, at Camden, ii. 122
Red Bank Fort, i. 290
attacked, and enemy repulsed, 300
Reed, Adjutant General, to Lee, i. 143, 144
to Gates, stating diminished confidence of Washington, ii. 25
to Gates, 203
Reforms in Parliament urged, iii. 3
Removal of officers—power discussed, iv. 11
declared to be in the President, 15
Madison's views, 430
constructive violation of Constitution, 432
Representatives—biennial term objected to—fixed by Constitution, iii. 407
apportionment of, iv. 325
Reprisals on English property proposed, v. 522
opposed by Hamilton, 524
Reprisals by navy authorized against France, vii. 143
Republican Constitution guaranteed to each State, iii. 267
Residence of Congress, iv. 134
discussed and temporarily fixed at Philadelphia and permanently on Potomac, 137
history of cabal as to residence, 475
residence question and charter of National Bank, 483
effort to influence Washington defeated, 485
Retaliation on French citizens—act authorizing, vii. 244
Revision, Council of, iii. 264
urged by Madison—opposed by Hamilton, 264
Revolution American—condition of colonists — no distinction of ranks, iv. 544

PAGE

Revolution American—
a mere secession from England, iv. 547
Rhode Island—deputation and letter to, as to grant of impost, ii. 340
refuses the grant—her objections answered, 342
violent policy—test oath, iii. 151
adopts Constitution of the U. S., iv. 174
withholds two votes from Pinckney, vii. 409
first Federal State to join in the support of Jefferson, 503
Rives, William C.,—comments upon his notices of "History of Republic" in his "Life" of Madison, vi. 609
Robbins—case of—a pirate and murderer, vii. 368
Rochambeau, commander of auxiliary army of France, ii. 16
Ross, David, elected to Senate, v. 481
resolutions of—asserting the right of deposit—calling for immediate occupation of forts in New Orleans and employment of naval and military forces of U. S., vii. 629
speech in support of his resolutions, 631
substitute giving power to employ militia passed, 633
Rush, Benjamin, as to Lee, i. 162
Rush, Dr., resigns under an inquiry as to abuses, i. 392
anonymous letter to Patrick Henry, 393
aspersions—hatred to Great Britain, ii. 205
Russia cultivates favor of England—policy of Vergennes, ii. 407
Rutledge, John, ii. 333
appointed Chief-Justice in place of Jay resigned, vi. 422
nomination of rejected by Senate, 423

S

Saratoga, battle of, i. 326
Savannah attacked by Lincoln and D'Estaign—repulsed, i. 561
Scammel, Col., wounded and dies, ii. 270
School established in New York, i. 10
Scotch, i. 7
Schuyler, Philip, in New York Assembly, i. 29
supports election by ballot, 33
his character, 76
in Continental Congress, 91
of Committee to organize an army, 92
appointed Major-General, 92
head of Northern Indian Department, 93
in command at New York, 95
urges troops to northern frontier—urges forming an artillery company, 102
and raising works on Hudson, 103
ordered to advance into Canada, 105
advances into Canada, 221
taken ill and retires, 222
as to discontents of Eastern troops, 223
difficulties with Wooster—demands a Court of Inquiry, 224
disposition of force, and firm purpose, 240
alarms in Albany, 246
recalled from his command—inquiry ordered, 251

PAGE

Schuyler, Philip—
his previous strategy, i. 303
department to Gates when superseded, 307
kindness to Burgoyne, 333
acquitted honorably by Congress, 513
his great utility, ii. 19
to Hamilton as to his appointment as Secretary of Embassy to France, 19
recommends coercive power in Government, 111
appointed a Commissioner to Convention, 111
opposes discriminating laws, iii. 149
exerts influence in support of treaty with Great Britain, vi. 395
Seamen—bill for relief and protection of passed, vi. 418
Seamen, American—bill for protection of, postponed, vii. 670
Search, right of, examined by Hamilton, vi. 275
Seat of National Government, iii. 542
Hamilton favors a position in New Jersey, 543
Secretary of Treasury—duties of, iv. 37
Secret associations—evils and dangers of, vi. 127
progress of, and suppression of in France, 128
Secret debates objected to by Madison, v. 444
motion to rescind existing rule prompted by a discussion of measures as to Algerines, 444
Sedgwick, Theodore, advocate of Constitution in Massachusetts Convention, iii. 407
supports the taxing power, 414
opposes discrimination of public creditors, iv. 77
urges assumption of State debts, 89
defends Excise system,—defends a National Bank, 240
vindicates power of President to establish post-offices and routes, 343
notice of motion for measures of defence proposed by Hamilton, v. 509
resolutions for raising military force and authorizing an embargo, 510
reference ordered as to detail of measures of defence, 521
injurious conduct of England, but necessity of a special mission, 540
to Secretary of Treasury as to revenue, when to be deemed in treasury, and whether any amount capable of being drawn into it, and as to expediency of a loan, 577
loan authorized, 578
speech on organization of militia, vi. 141
exposes conduct of opponents of the fiscal system, 177
tribute to Hamilton, 178
moves provisions to carry into effect treaties recently concluded, 393
retort upon Gallatin, 393
appeal to Madison, 401
to Hamilton, preferring Jefferson to Burr as President, 437
labored letter to Hamilton as to choice of President, 450

PAGE

Sedition Act, modified and passed—
its features, vii. 162
Senate. Hamilton wishes it chosen by the people through electors—to be chosen by State Legislatures, iii. 310
term of service discussed, 310
suffrage of States in its choice, 313
its duration vindicated, 412
Wilson — national sovereignty — Declaration of Independence, 304
consent of necessary to removals, iv. 433
opens its doors during legislative proceedings, v. 482
act for punishment of certain crimes, 572
opposed at instance of French ambassador, but passed, 574
address of, offering thanks due to Washington, opposed, vi. 325
address passed, 326
Sequestration of British debts proposed, v. 523
opposed by Hamilton, 524
Shelburne, against acknowledgment of independence of United States, ii. 466
Sherman, Roger, for four years' duration of Senate, iii. 311
vindicates proposed assumption of State debts, iv. 88
Short, appointed Minister to Spain, vi. 9
rejected as envoy to Russia, vii. 692
Simcoe, takes post near Miamis, vi. 6
explanation demanded of this and other menacing procedures, 6
Single Executive officers urged by Hamilton, ii. 97
Executive, National—how chosen, iii. 261
its powers, 261
its term of office, 262
mode of election, 262
declared to be ineligible, 262
removal by impeachment, 262
single or plural executive, 263
seven States for a single executive, 264
single executive approved—differing views as to its choice—re-eligible, 326
vote as to term of good behavior declared to be seven years, 327
term reduced to four years—electors of to be chosen by Legislature, 334
Sinking fund, plan of, iv. 57
force of stated, vi. 169
vesting it in commissioners as "property in trust" opposed but retained, 180
Six Nations—their Federal Republic, i. 5
of Indians—council of Western Indians desiring peace—confidence in Washington, vi. 59
their letter to Hamilton, protesting fidelity to U. S., 62
war with Six Nations threatened, 100
Slaves, computation of in fixing contributions to Government, ii. 521
three-fifths to be comprehended, 523
three-fifths representation adopted in Constitution, iii. 325
tax upon each, vii. 164
act of New York for their gradual emancipation, 315

PAGE

Slaves—
ordinance of 1787, vii. 660
effort to suspend its operation in Indiana defeated, 661
South Carolina repeals her law prohibiting importation of, 661
Congress impose a specific tax on all imported slaves into U. S. or territories of, 661
provision as to, in Louisiana, 661
three-fifths representation of denounced, 800
Slave-trade, restrictions upon, iii. 438
abolition of, iv. 99
Smith, Melancthon, in New York Convention, opposes three-fifths representation of slaves, iii. 485
Smith, of Connecticut, against resolutions of reprisal, v. 542
Smith, Robert, appointed Secretary of Navy, vii. 506
Smith, William, exposes inconsistency of opposition in respect to taxation, vi. 162
opposes call for papers in negotiation with Great Britain, 357
resolution of in reply to Gallatin as to amount of the public debt, 418
asks to read corrective statement as to the finances—permission refused by House, 421
on demand of compensation for spoliations by France, vii. 35
authorized to treat with "The Porte," 294
Snuff, duty upon suspended, vi. 413
Soldiers denounced, i. 34
Sons of Liberty, i. 20
organized in New York, and appoint committee of correspondence, 50
Southern domination denounced in New England, vii. 799
Southern politics tending to disunion, vi. 112
South America, liberation of contemplated by Hamilton, vii. 211
negotiations of Miranda, 212
favorable sentiments in Paris, 213
commissioners from state terms of aid by England arranged by Pitt, 213
South America, 322
South Carolina and Georgia conquered, ii. 14
South Carolina Colonial Government—settlement of, iii. 427
colonial disputes, 428
State controversies, 430
debates on Constitution, 431
ratifies Constitution, 441
French force levied in, but suppressed, v. 397
joins the opposition, vi. 339
Spain hesitates to aid United States—urged to co-operate by France, ii. 413
disinclined to war with England, 419
terms of treaty with discussed, 425
her coldness to United States, 437
refuses to permit navigation of Mississippi, 438
her policy as to terms of treaty with United States, 475
interposes with France to exclude the U. S. from navigation of Mississippi, 478

PAGE

Spain—
boundaries with U. S., ii. 480
negotiations with as to Mississippi, iii. 100
plan of commercial treaty with Jay's views, 101
Vergennes accords with Spain, and confiscation menaced if Americans navigate Mississippi, 107
necessity of immediate settlement of question as to Mississippi, v. 387
negotiations with, 387
commissioners from present an angry remonstrance—caution of U. S., 391
condition of Spanish territory adjacent to U. S., 392
French plot against Louisiana, 398
confidential message of President as to correspondence with agents of Spain, 444
commissioners avow determination of Spain to hold exclusive navigation of Mississippi, 496
withdraws from coalition with France, vi. 58
treaty with ratified, 349
negotiation with, 352
alliance with France, and mutual guarantee of territories, 479
measures to sever Western territory, vii. 57
continues to be a satellite of France, 215
acts of hostility on American commerce, 216
convention with ratified—one extraordinary feature of, 571
Spanish boundaries—demarcation of frontier line—narrative of impediments by Spanish authorities, 54
Springfield, in New Jersey, burned, ii. 33
Stamp duties imposed, i. 18
Stamps destroyed, i. 20
Stamp act repealed, i. 23
Stamp duties—act defeated because of amendment taxing transfers on stocks of United States and of banks, v. 594
Stamp act passed, vii. 52
Standing Committee as to private claims appointed by House of Representatives, vi. 714
State Constitutions, i. 187
State debts, iv. 46
State jealousy, iii. 121
States, New, admission of, iii. 265
State Rights—party—germ of Democratic party, iv. 418
States, Southern, their interest in the Union, iii. 436
State pride and ambition to rule—people unused to an efficient Government—cry against provision for State debts, and foreign debt deprecated, iv. 459
St. Clair, manly conduct to Schuyler, i. 250
defeat of, iv. 382
measures to check Indians, 384
inquiry into causes of defeat proposed, 413
Select Committee of Inquiry appointed, 415
Hamilton assailed — report presented, 416

PAGE

St. Clair—
report on defeat referred to same committee which made it, and revisionary report made disproving the former and exculpating Secretaries of War and Treasury, v. 124
ordered to suppress expedition against Louisiana, 395
removed by Jefferson, vii. 676
St. Domingo—treaty with Hayti, vii. 238
overtures to U. S., 239
Hamilton disaudes a commitment by U. S., and encloses a plan of Government, 317
St. Germain, Minister of War—his impolicy, ii. 405
Sterling, General, expedition to Staten Island, ii. 5
Steuben, Baron, Inspector-General, i. 437
his dissatisfaction, 488
requested by Congress to repair to Rhode Island, 490
letter of Hamilton to, 510
Stillwater, battles at, i. 311
Stoddart appointed Secretary of Navy, vii. 255
impugned and fully vindicated, 535
Subsidies, i. 7
Sugar act, i. 16
Sullivan, John, General, crosses Delaware, i. 163
birth—early patriotism—elected to Congress—a Brigadier-General—ordered to Canada, 167
descent on Staten Island, 265
his failure, but conduct approved, 266
gallantry at Brandywine, 277
at Rhode Island, 486
cautioned to prudence with French officers, 492
his imprudence, 494
commands expedition to subdue Indians, and instructions to, 543
cautions Washington as to plots of the Cabal, ii. 116
proposes Hamilton as head of Treasury Department, 201
quells insurrection in New Hampshire, iii. 156
Sumter raises a small force and routs a party at Hanging Rock, ii. 119
Supply to troops granted, i. 32
stigmatized, 32
renewed, 38
Supremacy of national laws and treaties approved, iii. 326

T

Tactics—system for infantry framed by Hamilton, vii. 392
system for cavalry by Pinckney, 392
system of artillery and ordnance, 392
Talleyrand—personal intercourse with Hamilton—his attachment to him and estimate of, vi. 250, 251
Secretary of Foreign Affairs of France, vii. 88
letter of, intimating that commissioners would be sent by France to U. S., 92
demands money from envoys as price of terms, 121
answer of to envoys, impugning conduct of U. S., 151

PAGE

Talleyrand—
reply to, vii. 152
assurances of reception of an envoy, 300
negotiates convention with U. S., 414
Taxation, power of and various opinions as to, iv. 419
concurrent power established, except as to imports and tonnage, 419
Taxes on commerce opposed by New York, i. 8, 9, 11, 29
internal on snuff and refined sugars—debate on their continuance, vi, 155
continued, 179
Tax on houses—opposition to and amendatory act, vii. 163
Taylor to Jefferson as to severance of the Union, vii. 258
Tazewell of Virginia moves rejection of treaty with Great Britain, vi. 215
Tea, introduction denounced by Philadelphia, New York, and Boston, i. 49
tea destroyed in Boston, 50
tea destroyed in New York, 52
tea destroyed at Annapolis, 62
Teas, warehouse of, iv. 212
act for collecting duties upon and warehousing, 228
Tennessee, admission of as a State—constitutional objections disregarded, vi. 417
bill for admission passed, 418
Ternant appointed Minister of France to U. S. in place of De Moustier, recalled, iv. 564
Tilghman, Col., aid of Washington, i. 170
Titles proposed and rejected, iv. 21
Tonnage act passed, iv. 109
Tonnage, American—its progress, vii. 510
Tories, violent treatment of, iii. 10
Toussard, Col.—gallantry—loses his arm, i. 496
Tracy, Uriah, on Jefferson's report on commercial intercourse, v. 469
Trade, contraband, i. 9
Trade, Board of, proposed by Hamilton, i. 575
Treasury Department, single or plural, iv. 17
duties of secretary, 18
officers of and duties, 38
Treaty of peace with England—its terms discussed, ii. 423
Treaty of commerce with England, instructions as to, ii. 426
Treaty of peace with Great Britain—points in discussion, ii. 482
policy of France as to the boundaries and fisheries, 483
concluded, and terms vindicated, 486
censure of commissioners proposed in Congress, 489
defeated, 490
treaty of peace—its binding obligations established by a Court in New York—the decision popularly condemned, iii. 21
legislative intolerance, 22
Treaty of commerce with France, plan of, adopted, ii. 410
presented to France, 411
plan of treaty—its features, 414
additional instructions, 415

PAGE

Treaty of alliance with France concluded—its features and policy, ii. 416
Treaty of amity with Great Britain concluded, vi. 196
opposition to negotiation, 196
instructions to Jay, 200
conferences of Jay and Grenville respecting plans of treaty, 205
Burr moves postponement of its consideration, 215
Tazewell moves its rejection, 215
conditionally ratified by Senate, 218
twelfth article as to West India trade suspended, 218
violation of secrecy by publication of, 222
popular movements against it, 223
advice of cabinet as to ratification of, 235
signed by Washington, 247
petitions to defeat provisions of treaty, 313
ratification of at London announced, 345
proclamation of fact by President, 345
Treaty with Great Britain—resolution—not expedient to pass laws necessary to carry it into effect, vi. 393
meeting called in New York to sustain this resolution, 396
Hamilton's dissuasive address, 396
Senate resolves to connect provisions for each recent treaty with the others, 399
resolution to pass laws to carry treaty with Great Britain into effect passes House, 402
explanatory article of treaty, 477
Treaty power of Constitution defended, iii. 435
Treaty power discussed, vi. 355
Madison's view of, 356
Hamilton's opinion, 360
Madison's speech on, 362
his prior commitments as to this power, 366, 367, 368
support of obligation of treaty power, 369
it is an Executive power, 371
call for papers by House passed, 374
Washington's message as to, 378
resolutions by Blount, 382
passed, 384
Hamilton's dissertation in draft of a message for President on constitutional agency of House in regard to treaties, 385
as to acquisitions of foreign territory, vii. 664
Troup, Robert, joins volunteer corps, i. 99
Trumbull to Gage—orders trainbands to duty, i. 88
Tryon, Governor of New York—his character, i. 38
resumes government in New York, 95
driven from New York—exults at probable subjugation of colonies, 100
inroad on Connecticut, 192
to Washington, 454
reply, 455
Tucker, George, misstatements of disproved, vi. 35
misstatement by, as to Jefferson, disproved, 85
Turgot, Comptroller-General, ii. 405
desires final subjection of British

PAGE

Turgot—
colonies by Great Britain—anticipates their independence—objects to open but advises covert aids, ii. 409
Ticonderoga taken by Americans, i. 89
evacuated, 232

U

Union—Hamilton, 1
of colonies urged by New York, 13
plan of Franklin, 14
not a compact of States, iii. 20
indissolubly urged as effect of commercial regulations, 110
dismemberment of, vii. 772
hostility to Southern domination, 774
division of predicted, 800

V

Valley Forge, i. 391
Vans, Murray, on commercial retaliations, v. 520
Venable proposes to appropriate the sinking fund to pay the debt, v. 145
Venice and Genoa conquered by France, vii. 86
Vergennes—his political career, ii. 403
favors secret aid to United British colonies, 408
asks a loan to United States, 409
conference with Adams as to terms of a treaty, 452
objects to Adams being recognized by Holland, 453
objects to Dana asking to be acknowledged by Russia, 454
conduct as to terms of peace, 473
urges treaty with Spain by U. S. waiving acknowledgments of independence, 479
rebukes Franklin for concluding treaty of peace without his knowledge, 485
"Veritas"—its authorship, v. 376
Vermont, independence of recognized, iii. 235
Veto of President—history of veto power, iv. 337
Hamilton's view of, 339
Vice-President—dangers and uses of office iii. 560
Adams, John, proposed, 561
Virginia, i. 29
recommends intercolonial committees of correspondence, 49
recommends an annual Congress, 53
seizes public arms, 88
instructs a declaration of independence, 116
its apathy and inertness condemned by Patrick Henry, 558
also by Lincoln, 559
its inertness complained of, ii. 11
and North Carolina militia—cowardice of, 122
its impotent counsels, 168
proposes bounty to raise troops—not adopted, 200
its inertness ascribed to Jefferson, 229
exposed by Steuben, 241
and by Muhlenberg, 244

PAGE

Virginia—
invaded in different directions, ii. 245
Steuben's renewed complaints, 246
La Fayette's censure, 247
its Legislature dispersed by enemy, 250
opposes grant of power to Congress to levy duties, 360
her continuing inertness, 324
her course as to public lands, 326
makes a qualified cession, 327
her conduct as to navigation of Mississippi, 438
restitution of confiscated property and recovery of debts objected to, 531
insisted on by Congress, 532
sustains confiscation laws, iii. 26
cession of her public lands, 76
her varying policy as to trade and as to navigation of Mississippi, 104
her retaliatory commercial acts, 128
stamp act—carriage tax, 139
commissioners as to navigation of Chesapeake, 159
resolution for a commercial convention, 160
opposition to Constitution, 444
geographical position—population, 455
Established Church—Papists and Quakers outlawed, 457
colonial governments of, 458
narrow prejudices against other colonies, and State pride, 459
State Government of, 460
motives of opposition to Constitution, 461
proceedings in convention of, 463–480
Jefferson's indirect policy condemned, 477
ratifies Constitution, 479
resolute opposition to Constitution—Legislature votes a second general convention, 540
favors discriminating duties, iv. 3
resolutions of against act making provision for public debt, 230
unfriendly to a National Government, 418
denunciation of fiscal system, 478
hostile procedures toward England, 561
Legislature will not approve proclamation of neutrality, v. 422
resolutions asperse Hamilton, 422
resolution instructing her Senators to inquire and report measures taken for fulfillment of treaty with Great Britain, and her answers, 431
also a resolution to suspend operations of fourth article as to British debts, 431
sustains Washington's efforts to suppress insurrection in Pennsylvania—letter of Carrington to Hamilton, vi. 83
Democratic society in, attacks Washington, 125
demonstrations in, of hostility to treaty with Great Britain, 238
petition of Legislature to defeat provisions of treaty with Great Britain, 313
opposition of her Senators approved, 313
instructs Senators to obtain

PAGE

Virginia—
amendment of Constitution as to binding power of treaties, vi. 314
also against Senate trying impeachments, be eligible only for three years, and that no judge of U. S. be capable of holding at same time another office, 315
bill rendering land liable to execution rejected, 315
Massachusetts refuses to consider Virginia resolutions as to treaty, 338
New York also rejects them, 338
denunciatory resolutions of U. S. Judiciary pass House of Delegates, vii. 99
resolutions as to alien and sedition laws, 267
counter resolutions rejected, 279
its political notions — Virginia school, 315
passes an act for electing a general ticket of electors, each voter to endorse his name on the back of his ballot, 340
new taxes imposed, 344
instructions to her Senators condemning the policy of the Government, 345
ready to resort to force against the Government, 358
convention of U. S. proposed in, to choose a President, 432
proposal to remove arms of State to Harper's Ferry, 432
Volney—intimate of Jefferson—perambulating Western territory, vi. 474
flies from U. S. vii. 160

W

War—England with France, i. 15
Ward, Artemas, appointed a Major-General, i. 92
Washington, George, presides in Fairfax County—its resolutions to organize troops, i. 84
in Continental Congress, 90
of committee to organize an army, 92
appointed commander-in-chief, which he accepts, 92
proceeds through New York to New England, 95
urges an indissoluble union, 106
discountenances jealousies among colonial troops, and rallies them to the conflict, 124
retreats from Long Island, 126
as to destruction of New York, 127
battles of Trenton and Princeton, 138
instructions and correspondence with Lee, 142
to Gates, 162
noble letter to Congress, 163
as to currency, 186
urges Arnold to be sent to Schuyler, 235
contemplates moving to encounter Burgoyne—cautions as to Gates, 264
battle of Brandywine, 272
retreats to Chester and thence to Schuylkill, 288
battle of Germantown 293
cabal against him, 370

	PAGE
Washington, George—	
correspondence with Gates,	i. 378
as to state of army,	386
impolity of impressments,	388
erects huts at Valley Forge,	392
cabal against exposed,	393
exposure and rebuke of Gates	400
Gouverneur Morris to Washington,	409
his fortitude,	412
jealousy towards army,	413
as to foreign military adventurers,	433
calls council of war as to operations of army,	463
his firm decision,	464
crosses Delaware,	465
rebuke of Lee,	475
dissatisfaction with foreign officers,	487
encamps at White Plains,	499
as to proposed expedition to Canada and contingent preparations for,	501
opinion as to plan for conquest of,	505
dissuades it,	508
again disapproves it,	510
favors annexation of Canada,	513
congratulates Schuyler on his acquittal by Congress,	513
letter to Reed as to forestallers,	515
plan to capture Washington discovered,	527
contemplates joint attack upon New York,	529
vindicates his conduct to Gates,	537
as to defence of Southern States,	538
to Jersey regiment,	540
urges provision for officers,	542
circular to obtain reënforcements,	545
head-quarters at New Windsor,	548
weakness of army,	552
difficulties as to commands of officers,	554
conference with La Luzerne as to the Floridas and Canada,	557
in New Jersey,	ii. 38
moves to Peekskill,	37
cautions Congress not to suspend Greene, and their intention relinquished,	42
graphic view of state of army and of foreign affairs,	43
a draft of troops and more ample supply of provisions urged,	45
magazines for Southern States,	46
Southern States refuse increased powers to,	46
conference with Rochambeau,	49
kindness to Arnold;	51
urges an increase of army—permanent force for South and magazines,	127
commendation of Hamilton,	202
forms a junction on the Hudson with French army,	253
stratagems to conceal movement of army to South,	258
moves to Philadelphia,	259
invests Yorktown,	265
as to punishment of Captain Asgill,	284
Vergennes interposes,	287
Congress releases him,	288
his views of army discontents,	379
order disapproving disorderly proceedings,	384
statement to Hamilton,	385
as to perpetuation of Union and reform of Confederation,	396
Washington George—	
army discontents,	ii. 499
his opposition to State funds and local prejudices,	506
resigns his command at Annapolis,	iii. 70
repairs to Mount Vernon,	71
as to Cincinnati,	124
desire to serve Steuben,	125
views of power necessary in a general government, and disorders arising from State governments,	254
chosen President of General Convention—as to secret debates in Convention,	255
obligation not to note proceedings,	256
Washington approves Hamilton's views of government,	303
approves a strong, energetic government,	322
favors a provision for Steuben,	368
urges adoption of Constitution,	443
opposes a second convention,	448
rejoices at ratification by Virginia,	479
favors a central seat of government,	544
applauds Federalists of New York,	546
reluctance to become President,	551
as to selection of Vice-President,	561
unanimous vote as President,	568
proceeds to New York—honors there—inaugurated as President,	569
his appearance and inauguration,	iv. 8
asks Madison to prepare answer to address of House of Representatives,	9
consults Hamilton as to etiquette,	9
selects him as Secretary of Treasury,	29
inclines to discriminating duties in favor of France,	35
visits New England,	37
requests Hamilton to prepare his speech,	198
his satisfaction with public affairs and a restoration of public credit,	316
calls upon Hamilton to prepare his speech,	320
orders vindication of military proceedings against Indians,	383
cautious but decided opinions in favor of emancipation of slaves,	457
appearance of and dress—public and private manifestations of respect to,	498
designs to prepare for monarchy falsely imputed,	499
satisfaction with public affairs,	507
prospect of excise system,	508
intimates thought of retiring,	v. 33
effort by Jefferson to induce his retiring,	34
invites Madison to prepare a valedictory address,	36
places before Hamilton Jefferson's objections to Administration, and imputations of evil designs,	40
urges Jefferson and Hamilton to mutual forbearance,	66
undecided as to retiring—disbelief of a monarchical party,	87
his conviction of public prosperity,	88

PAGE

Washington, George—
to Hamilton—resolution to enforce excise laws, v. 96
approves indictment of offenders and avows determination to enforce the laws, 100
requires Jefferson to countersign proclamation against Pennsylvania insurgents, 102
becoming avowal of his purpose to sustain the laws and the Constitution, 104
calls on Hamilton to prepare speech, 115
topics of speech—public avowal of determination to enforce the laws, 116
inculcates value of peace and measures to prevent infractions of law of nations, 117
assailed in "National Gazette," 183
unanimously reëlected President, 213
compliments on his birthday censured in "National Gazette," 221
Jefferson hold up to admiration, 222
letter to Hamilton—wishes a *strict* neutrality—urges his attention and resolves immediately to return to Philadelphia, 228
letter to Jefferson in same terms, 228
requests Hamilton's circular to collectors as to neutral rights and duties be postponed, 242
letter to Hamilton as to circular to collectors, 245
merchants' address approving neutrality and pledge to observe it, 252
reply on observing neutrality and preservation of peace, 252
asks opinions of cabinet as to notice of British memorials, 253
discreet deportment towards Genet, 259
cabinet council on Genet's dispatch, 264
decided to prohibit arming French vessels in ports of U. S., 264
arraigned in press with double dealing, 269
directs Jefferson to report as to requiring reply from Hammond as to treaty fulfilment or wait decision of courts, 273
calls a council in respect to "Little Sarah," 303
earnest note to Jefferson, 303
in accordance with his wishes pending questions between France and England submitted to Judges of Supreme Court, 304
menaced with public displeasure, 311
invectives against him, 311
to Lee as to abuse of himself and injurious effects on public mind, 316
calls on Jefferson to report on all the letters of Genet and our memorials of Hammond, 316
approves a new loan in Holland, 318
course of proceedings as to loans, 319
reasons assigned by for convening Congress, 327
insulting appeal to Washington, 346
requests Hamilton to prepare his answer, to proceedings in New York, 395

PAGE

Washington, George—
delegates to Hamilton answering resolutions of Richmond, v. 355
reply to Pendleton as to Hamilton's fiscal conduct, 379
consults Hamilton as to power to change place of meeting of Congress, 380
proposes twice dismissal of Genet, and approved by Hamilton and Knox, 400
disapproved by Jefferson and Randolph, 400
no decision made, 401
outlines of speech by President, Randolph, and Hamilton considered, 403
summary of speech, 405-7-8
substance of message on foreign relations, 415
reply to address of House, 420
commands Jefferson's signature to a reply to Genet, which is given, 436
letter to Richard Henry Lee as to course of Genet and conduct of opposition, 437
urged to appoint Hamilton envoy to England, 533
order peremptory to Randolph to prepare message appointing Jay envoy, 555
his view of conduct of England, 555
nominates Jay envoy to England, 558
message urging Congress to prepare for war, vi. 7
statement of as to Hamilton's authority to loan, 22
earnest remonstrance by Hamilton on this statement, 23
reply to Hamilton approving his continuance in office, 41
his opinion as to his power to promise compensation founded upon Randolph's advice, 48
his view as to extent to which he had committed U. S., and limited power of Executive, 50
calls on Hamilton for opinion as to expeditions forming in Kentucky and Georgia, 52
disregards Randolph's advice,—issues a proclamation commanding insurgents to disperse, 73
interview with Mifflin to induce him to aid in enforcing Excise laws, 74
President proceeds to Carlisle—greeted there, 104
thence advances to Cumberland, and returns to Philadelphia, 106
calumniated by opposition, 113
speech, cursory detail of Western insurrection—encomium on militia and appeal for preservation of Constitution, 115
extinguishment of debt and peaceful policy, 116
condemns the Democratic societies, 122
rebukes the opposition in House, 126
speech urges completion of fiscal system, 151
full testimony to Hamilton's public services on his resignation as Secretary of Treasury, 191
resolved to ratify the treaty with

PAGE

Washington, George—
Great Britain if approved by Senate, vi. 228
consults Hamilton as to his course in regard to this treaty, 228
to Hamilton as to his advice that new article of treaty be submitted to Senate, 235
dignified reply of, to remonstrance of Boston, 237
to Hamilton as to treaty, 240
announces to Randolph his return to Philadelphia to consider ratification and instructions, 241
condition of public mind as to treaty—partisans of French, 242
urged to return to Philadelphia, 243
to Randolph—stating resolution to ratify the treaty, 244
signs the treaty, 247
interview with and exposure of Randolph who resigns, 247
Randolph's resignation accepted, 248
reply to Livingston as to treaty with England, 257
invectives by Democratic presses and menaced impeachment of, 283
rebuke by, in reply to an address, 284
consults Hamilton as to terms of a new negotiation with Great Britain, 285
kindness to young La Fayette, 291
authorizes Randolph to publish all his correspondence with him, 294
"calm observer" impeaches Washington's integrity—and brief reply by Wolcott, 296, 297
"explanation" by Hamilton vindicating Washington, 297
summary of, 299
assures Randolph of secrecy unless an explanation necessary, 301
replies to Randolph's inquiries, 301
consults Hamilton as to notice to be taken of Randolph's "vindication," 309
his indignation towards Randolph, 309
invites Governor Johnson, C. C. Pinckney, and Patrick Henry into his Cabinet, 311
consults Hamilton as to a successor to Randolph, stating offers made by him, 312
consults Hamilton as to his speech, 320
refusal by House to visit President on his birthday, 344
consults Hamilton as to course in respect to call by House for copies of instructions and papers relating to treaty with Great Britain, 346
La Fayette, G. W., repairs to residence of, 349
cautious consideration of as to call by House of papers in negotiation with Great Britain, 374
again consults Hamilton, 374
communicates to him that he had prepared a draft of reasons for refusing papers to House of Representatives, 378
summary of this draft, 379
nominates Commissioners under treaty with Great Britain, 381
his correct judgment on opposition to fulfil treaty with Great Britain, vi. 405
hesitation to appoint King envoy to London, 427
reurged by Hamilton and appointed, 428
consults Hamilton as to course to be pursued in case of hostile mission from France, 457
consults Cabinet as to power of President to send an extra envoy to France during recess of Senate, 466
Cabinet opinion against the power and necessity of recalling Monroe to create a vacancy, 466
letter to Hamilton consulting him as to his power to institute an extra mission and asking general advice, 467
letter to Monroe vindicating his own foreign policy, 470
confidential paper of treacherously published, and Washington assailed, 481
another confidential paper of published, and Washington denounced, 482
directs Secretary of State to prepare an exhibition of foreign policy of U. S., 483
Jefferson to Washington, denying agency in publication of confidential papers, 484
duplicity of this letter, and Washington's pregnant reply, 486
letter to Gouverneur Morris on injurious policy of Great Britain, to induce a more liberal policy, falls into hands of French Directory, 490
attacks upon President to induce his resignation, 491
publishes his circular letter to States, 492
requests Madison to prepare draft of a Farewell Address, 493
Madison prepares a draft—comments upon, 494
Washington prepares a draft and submits it to Hamilton to be redressed, 497
to Hamilton, giving him option to throw the address into a different form, retaining his views, and also asking his own draft when amended by Hamilton to be returned, 498
urges Madison's draft to be quoted in full, 499
as evidence against Jefferson and Madison, 500
contents of Washington's draft, 500
Washington's preparatory draft, 501
to Hamilton, tenacious of his own draft to be modified, 522
to Hamilton, as to his draft, 525
returns Hamilton's draft with approval, 526
to Hamilton, suggesting recommendation in draft of a national university, 527
to Hamilton, requesting him to prepare a draft of speech to Congress, 529

PAGE

Washington, George—
cancellations by Washington of parts of Farewell Address, vi. 531
issues Farewell Address, after submission to his Cabinet, 532
forged letters of republished, 538
vehemently assailed in Democratic press, 542
consults Hamilton as to course to be pursued towards Adet, 545
requests commencement of a navy be recommended in Hamilton's draft of speech, 550
summary of speech, 557
urges a navy—encouragement of manufactures—board of agriculture—national university, and a military academy, 558, 559
his peaceful policy—an efficient militia, 560
his opinion of conduct of France, 571
to Hamilton—doubts as to special embassy to France, 572
presence at Adams' inauguration—exhibition of public affection, 606
offensive article in "Aurora" towards Washington retiring, 607
approves policy of Adams—strongly censures the Democratic opposition, vii. 39
censures upon Democratic leaders, 67
fictitious letter addressed to, by a nephew of Jefferson—reply, 68
note and complimentary present to Hamilton, 81
strictures by upon Monroe's "View of the conduct of the Executive," 83
to Hamilton—declines making a tour—questions probability of an open war with France, and inquires whether Hamilton will be a coadjutor in case he accepts command of army, 172
states selection by himself of general staff a condition of accepting the command, 178
appointed "Lieutenant-General," 178
gives list of officers of general staff, placing Hamilton at the head, 179
Hamilton's services to be secured at almost any price—fears Pinckney would decline a junior appointment to him, 183
to Hamilton—his reliance on his being a coadjutor with him in army, and classed by him in rank over Pinckney and Knox, 183
soothing letters to Knox, 190
letters to as to rank of general officers—Adams' personal hostility to Hamilton, 195
dissatisfaction with Adams' conduct, 198
urges Hamilton to suspend his decision as to accepting a commission in army, 198
formal representation by, as to question of relative rank of general staff appointments, 199
marked commendation of Hamilton, 200
his kind feelings to Knox, 201
charges design of a party to subvert the Government, 269

PAGE

Washington, George—
avows his abhorrence of Jefferson, vii. 271
necessity of an alien act, 271
characterizes the Democrats as "the curse of their country," 272
urges Patrick Henry to enter the Legislature of Virginia—danger of civil discord, 273
disapproves delay in recruiting, 295
cautious replies to Adams, and comment on nomination of Murray, 304
danger of French acquiring Louisiana, 318
to Hamilton as to embassy to France, 335
to Hamilton as to his plan of "a military academy," 353
death of and public honors to, 354
rejoicings of democratic leaders on his decease, 357
vindication of Pinckney from British influence, 407
Washington, Fort, captured, ii. 136
Wayne, General, letter to, proposing capture of Stony Point, i. 548
midnight assault and capture, 549
moves into Indian territory—takes Grand Glaize—advances and gains a decisive victory, vi. 60
vote of thanks to finally passed, 135
attempt to displace him by proposed change in army, 414
Ways and Means—subject transferred from Secretary of Treasury to a committee, v. 579
standing committee of appointed, vi. 328
recommends an increase of revenue, 590
Weights and Measures, standard of, iv. 202
West Point—its situation, ii. 52
Western people clamor against employment of regulars to control Indians, vi. 60
Western territory—plan to sever it from U. S., vi. 473
measures of Spain to sever it from U. S., vii. 57
White Plains, battle of, i. 131
Wilkinson, General, report to Hamilton as to Western region and other topics, vii. 320
William—ship—libel filed, v. 273
and protest by French consul, 274
Wilson, for a Senate of nine years' duration and a triennial rotation, iii. 312
Witherspoon, ii. 332
Wolcott, Oliver, appointed comptroller, iv. 514
to Hamilton—conduct of Randolph, vi. 243
urges him to repair to Philadelphia, 243
to Hamilton, as to Randolph and state of treaty matter, 244
vindicated by Washington, 248
reply to Randolph's inquiries, 302
propounds questions to Hamilton as to fiscal matters, 317
consults Hamilton as to proceedings to fulfil the treaty with Great Britain, 319
ordered to prepare a plan of direct taxation, 333
suggests to Hamilton the recall of

	PAGE
Wolcott, Oliver—	
Monroe and mission of new confidential minister,	vi. 464
report on "true state of public debt," disproving Gallatin's "View of the Finances,"	589
report of plan of direct taxation,	591
views as to Jefferson and Madison as members of commission to France,	vii. 21
to Adams, on question of relative rank, stating Hamilton's pretension,	197
reply, advising call upon Adams for ground of his imputations against leading Federalists,	400
Wooster, General, his incapacity,	i. 225
demands an inquiry—result favorable, and resigns,	226

Y

Yates retires from Federal Convention,	iii. 322
Yazoo-lands—speculation,	vii. 633
Yorktown — its situation and defences,	ii. 263
besieged,	265

THE END.

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